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ABSTRACT

This monograph offers a critical response to the platform for restructuring the public educational system proposed by the American Legislative Exchange Council (ALEC) in its "Education Source Book: The State Legislators' Guide to Reform." The source book offers more than a dozen model state statutes that would effect a massive shift of public, tax-generated funds to the support and encouragement of private education. A bill-by-bill critique of the proposals is presented and right wing plans to spend public money for private education are analyzed. Under discussion are the ALEC approach to education and how each of the proposals for legislation would affect the role of parents, teachers, and the states in education. (JD)

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A LEGISLATOR'S BRIEFING BOOK

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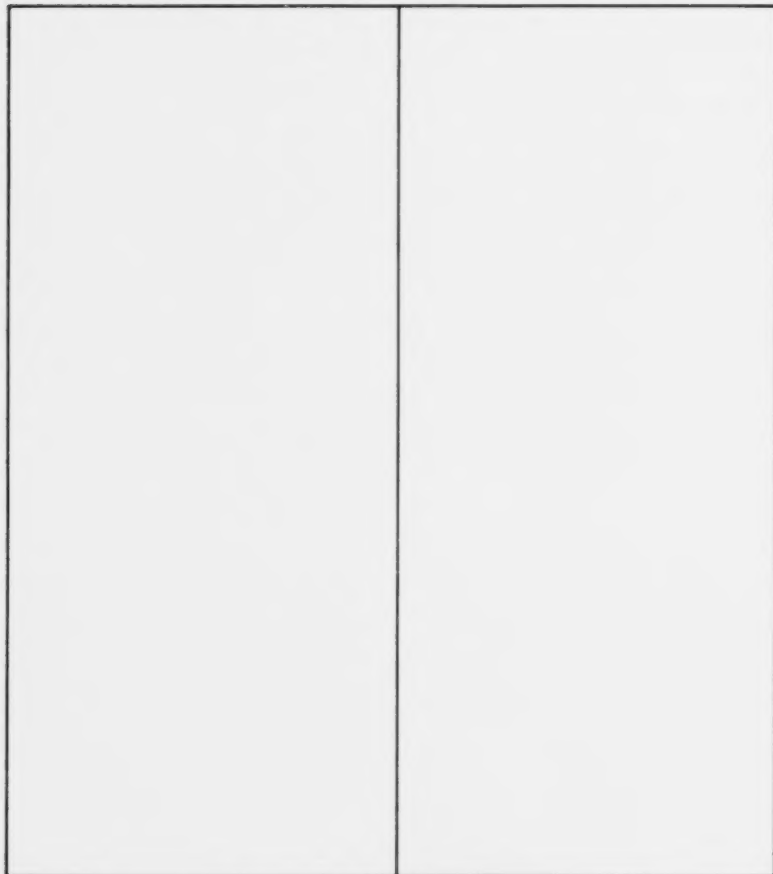
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CONFERENCE ON ALTERNATIVE STATE AND LOCAL POLICIES

THE NEW RIGHT'S EDUCATION AGENDA FOR THE STATES:

A LEGISLATOR'S BRIEFING BOOK



Sandra Martin

Conference on Alternative State and Local Policies
Washington, D.C.

1985

THE CONFERENCE ON ALTERNATIVE STATE AND LOCAL POLICIES

The Conference is a national public policy center that focuses on the needs of America's states, cities and counties by developing innovative ideas for state and local governments.

The Conference is the only national organization that develops progressive and innovative policy ideas for states, cities and towns. In the past seven years, the Conference has compiled an impressive record of initiating innovative legislation and programs with states and cities on problems such as: farmland preservation, pension fund investment, energy conservation, pay equity, environmental protection and economic development.

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For more information about the Conference, including sample copies of *Ways & Means* and our publications catalogue, please write or call:

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TO THE READER

In no other area have Americans been so visionary as in education. No sooner were fields cleared and houses built than teachers sought and schools opened.

In two hundred years, we have valued education no less. Preparing the minds of our inheritors for the work of democracy, providing the best pedagogy, the best buildings and materials, the best teachers has been a continuing challenge. Sometimes our success has not been so high as our standards, but our accomplishments have been noble. We have achieved truly democratic education while having one of the highest literacy rates in the world.

One of our greatest challenges has been to serve all while satisfying the vast diversity of culture, value, and point of view within our society. Today that historic balance may be in jeopardy. Indeed, civil war is brewing over the future of our schools.

That's because some people today argue that our school system ought to be dismantled because it will not value their opinions above those of their neighbors. They argue that the state ought to have no compelling interest in shaping the citizens of the future. Parents or private schools whose governance and curricula they direct are, they say, the only fit educators of children.

Engaging in dialogue on education is responsible, and championing alternatives to increase choice within the education system is worthy. But the American Legislative Exchange Council and its allies in the New Right want to legislate answers—their answers, often shortsighted answers—before discussion is fairly under way.

To encourage open, pluralistic debate on the education of the citizens who will direct America into the twenty-first century, this volume is written.

When undertaking a venture such as this, no progress is possible without generous assistance from many different people. In

this instance they include: Anne Henderson of the National Committee for Citizens in Education; Kris Jacobs of the Interchange Resource Center; Alan Reitman of the American Civil Liberties Union; and Jim Weill of the Children's Defense Fund. Others too numerous to mention include those individuals quoted in the book and the many employees of New Right organizations who cooperated with us on this project. Research and analysis was provided by Ellen Hoffman and Roni Laxa.

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Conference on Alternative
State and Local Policies

FOREWORD

When state legislators return to their desks in 1986, they will find a specific platform for radically restructuring the public educational system. Proposed by the American Legislative Exchange Council, the platform is contained in the *Education Source Book: The State Legislators' Guide to Reform*. If adopted, that platform—actually a bundle of more than a dozen model statutes—would effect a massive shift of public, tax-generated funds to the support and encouragement of private education.

The bills would finance public and private education through vouchers and tax credits, while eliminating teacher certification and other safeguards designed to guarantee educational opportunity, educational excellence and fiscal accountability.

Organized in the mid-1970s, ALEC purports to have a broad agenda but actually serves New Right state legislators all over the nation by developing model bills and legislative strategies. It provides a forum in which these legislators can exchange ideas, strategies, fund-raising sources, and model legislation.

Typically ALEC issues a "source book" every two years containing proposed model state legislation on issues ranging from prohibiting unionization of public workers to tax limitation proposals. However, ALEC accords such importance to education in our society that in 1985 it issued a special source book devoted entirely to education.

The ALEC blueprint has been presented at a time of great national debate and ferment over how the effectiveness of education can be improved. A series of respected analyses published in the last three years have focused a glaring spotlight on our educational system: on the problems of illiteracy; poor scores on achievement tests; weakness in curriculum; attracting and retaining high-quality teachers; and a reorienting of schooling toward excellence. (Synopsis of ten of the most important analyses can be

found in *A Summary of Major Education Reports*, published in November, 1983 by the Education Commission of the States.)

On the national level, despite the recommendations of its own commission, the Reagan administration has campaigned to dramatically reduce public education funding, to dismantle the protections of equal educational opportunity and to reduce federal responsibility for encouraging education and subsidizing to the role of religious and private education.

In the last five years, in recognition of the importance of public education, numerous governors and state legislatures have responded to the calls for educational excellence and to federal abdication by enacting education reform programs.

Typically such packages have included: new requirements for graduation, competency testing for both teachers and students, incentives for improving teacher preparation and compensation, and special initiatives in high-priority areas such as mathematics and science, early childhood education, or drop-out prevention.

Into this environment of debate and change—including very recent enactment of significant new education laws in the majority of the states—ALEC is thrusting its agenda.

The Importance of the ALEC Agenda

The agenda's importance derives from the role ALEC plays in propounding and lobbying for the agenda of the New Right; and from the cavalier manner in which it claims to speak for the majority of Americans, even when strong evidence shows it does not.

According to ALEC's 1983 annual report, its membership is dedicated to promoting "the free enterprise, limited government approach" to public policy.

A 20-person Washington office staff, two newsletters, a computer-based legislative research and tracking service, issue briefs, volumes of model legislation, and conferences and meetings are available to assist the 2,000 state legislators (out of a national total of 7,500) ALEC claims as members.

Kathleen Teague, ALEC's executive director for some nine years, resigned during the summer of 1985 and was replaced by Constance Heckman. Teague, who is chairman of the board of the Free Congress Foundation (whose goal is to mobilize the "pro-family electorate") continues to serve as a consultant to ALEC. At a testimonial dinner held in Teague's honor, Phyllis Schlafly, president of the Eagle Forum, praised her for playing "a key role in the birth and nurturing of the pro-family/conservative movement."

Heckman worked for ALEC from 1978 to 1981. She has since served as intergovernmental affairs director of the federal ACTION agency and as chief legislative assistant to Rep. Mickey Edwards (R-OK).

The organization's ties to the Reagan administration appear close and cordial. The September 1985 ALEC newsletter, *First Reading*, includes a picture of President Ronald Reagan "welcoming" Heckman to her new job. When ALEC sponsors Washington meetings, high administration officials—sometimes the president himself—commonly attend or speak.

Established as a tax-exempt, non-profit charitable and educational organization incorporated in Illinois, ALEC had a 1984 budget estimated at \$1.7 million. ALEC's 1984 annual report says that 76 percent of the budget for that year came from foundation and corporation grants and 13 percent from individual contributions. Conference and membership fees and publication sales accounted for the rest.

On the expenditure side, research and publications accounted for 45 percent of that year's expenditures, while 30 percent of the budget was spent on conferences and seminars.

While a complete list is not available, ALEC's contributors are known to include many oil companies (Atlantic Richfield, Chevron and Ashland among them) and the American Petroleum Institute; and well-known supporters of right-wing causes including Joseph Coors, the Scaife Foundation, the National Right to Work Committee and the National Tax Limitation Committee.

ALEC also operates a Political Action Committee—ALEC-PAC—devoted to the election of conservatives to state legislatures. "The goal by 1990 should be to have conservative control of at least one House in every state," Teague said in a March, 1985 interview in *Conservative Digest*.

ALEC credits the John M. Olin Foundation, a source of funding for many conservative causes, with support for its *Education Source Book*.

In the source book, ALEC claims that numerous state legislatures have already passed three education measures they developed. ALEC takes credit for passage of:

- the "Student Proficiency Act" in 29 states. Offered in 1977, this proposal requires states to institute passage of tests in reading and writing proficiency as a condition of high school graduation;
- the "Teacher Proficiency Act" in 23 states. Also offered in 1977, this bill requires teachers and other education personnel

to pass exams in English and mathematics as a condition of certification; and

- the "School Discipline Act" in 13 states. This bill authorizes teachers to "use corporal punishment in a reasonable manner . . . to maintain discipline and order" in the schools.

It is difficult to assess whether credit is due the organization since these concepts have been recommended by many groups.

CHAPTER ONE: THE ALEC APPROACH TO EDUCATION

Throughout its agenda ALEC makes sweeping claims about the alleged opinions and attitudes of Americans toward our educational system. These generalizations fall into several categories:

PARENTS

- "Most...are alienated from the current state monopoly in education and don't support it."
- Have little or nothing to say about what happens in the public schools.
- "More than ever" want to remove their children from the public system and place them in private schools or home instruction.

PUBLIC SCHOOL TEACHERS

- Are incompetent.
- All think alike.
- Receive training which is irrelevant to excellence in teaching.

PUBLIC SCHOOLS

- "Encourage...students to adopt value systems contrary to the ones in which they were raised."
- "Enjoy a near monopoly in education" because "private schooling is kept beyond the financial reach of most parents."
- "Are instruments of national purpose...and government temples of learning which inculcate the philosophy held by the majority of state officials and professional educators."

- Are controlled by state departments of education, and "judicial and legislative mandates" and are not responsive to "local educators" or to parents.
- "Are filled with crime, violence and general disorder."

On their face, some of ALEC's generalizations, as well as portions of some of the bills proposed, could provoke sympathy from parents and the general public on many points of the political spectrum. Most of us are concerned about the quality of education in our society, about the proper roles of families, teachers and institutions, and about how our taxes are spent.

But ALEC's attribution of certain monolithic, antipublic education attitudes to the majority of Americans simply does not jibe with the facts as reported in highly regarded surveys. These surveys suggest that public support for the public schools is not only strong but also growing.

The 1985 Gallup Poll of the Public's Attitudes Toward the Public Schools found:

- "The public rates the public schools as favorably in 1985 as it rated them in 1984, when the schools achieved the highest grades for performance in a decade."
- When asked to give the schools a "grade," 43 percent of respondents to the 1985 poll rated them A or B—statistically equal to the 42 percent who gave them that rating in 1984. In 1983, only 31 percent of the respondents rated their schools A or B.

Further, the 1985 Gallup Survey on Education found that 52 percent of the public favors more funds for public education and teacher training even if it means higher taxes.

* * *

ALEC does not draw a picture of how the educational system of a particular state would look if all of the bills included in this agenda were passed. However, it is crucial for legislators to know what would be in that picture before taking any action on any of the bills.

Looking into a crystal ball, here's how it might look if the agenda were passed by state legislatures:

Public schools would be attended by the children of working parents who cannot afford to "choose" an alternative private school despite, the "promise" of vouchers and tax credits, which actually only help those with higher incomes. Few private schools offer education to children who are handicapped or who have

other special educational needs. So it is likely that most of them would continue to attend public school.

Each public school would have its own "autonomous" board, which would have parents on it but could be chosen by the principal. The board would be involved in making decisions on hiring and firing and evaluating school staff, budget and curriculum.

Frequently, students from families in which a parent is home during the day would be educated at home, subject to taking competency tests but not to passing them.

In a dual education system, students whose parents could afford the average tuition and fees would attend a private school, generally religiously affiliated, which is subject to health, sanitation and attendance requirements but is not required to meet most civil rights protections, student or teacher proficiency requirements, curriculum requirements, teacher certification, labor standards or state personnel procedures.

Private and religiously affiliated schools could receive substantial funds from taxpayers through vouchers and tax credits but would not have to account for their use. Children attending private schools would retain access to all public school facilities, resources and personnel.

The state department of education would operate under a statutory budget limitation, and have a drastically smaller staff. Its primary responsibilities would be to handle the bookkeeping for the new education voucher system, and—along with the state "department of justice"—preparing and making available to the public detailed records about crimes that occur in schools. There would be some encouragement to mandate values education, prayer, "free enterprise" education and various restrictions on academic freedom such as the current federal Hatch Amendment regulations.

Existing responsibility for teacher certification, monitoring and enforcement of civil rights, innovation and curriculum development would disappear, either because they would be abolished outright or they would wither from lack of commitment.

Although they might exist in vestigial form, locally elected or appointed school boards would have little to do because each individual school would develop its own budget; teacher hiring, firing and evaluation policies; and program priorities.

Certification of public school teachers (and private school teachers, where that exists) would be abolished. Criteria for hiring and firing would be established by the board of each school. Teachers would be required to circulate "biographical sketches and data" about themselves, as well as reveal their "professional

background, affiliations and experience" to parents of all children in the school "at the start of the school year and throughout."

In ALEC's picture, children are passive, silent figures lingering in the shadows. Minority children, poor children and children with special educational needs would attend public schools along with others whose families—because of economic or social factors—wouldn't be able to send them to private schools.

Both the curriculum and methods to be used in the public schools would be submitted ahead of time to the school's "autonomous board" whose members may or may not represent the community. Those attending private schools might never be exposed to a "concept, practice or topic" which is not "consistent with (the school's) religious doctrines or other beliefs or religious convictions."

Children in private and public schools alike would be subject to the luck of the draw in terms of their teachers. There would be no certification or other commonly accepted standards for hiring and continuing to employ teachers. There is no assurance that parents would have access to summaries of competency test results or other measures of a school's educational program.

It's a bleak picture, but not an extreme interpretation of what could occur if the majority of the ALEC agenda were passed.

CHAPTER TWO: WHAT LEGISLATORS NEED TO KNOW ABOUT THE ALEC AGENDA

Legislators must scrutinize ALEC's agenda with care. It is not what it seems. (The proposed bills are reprinted in Appendix C.)

The agenda consists of three main sections, purporting to address the role of parents, teachers, and state departments in education. Each section contains an introductory discussion and the text of proposed model laws.

In addition to proposing model laws, ALEC presents a grab bag of other proposals relating to "moral education," school finance and involvement of the private sector in the public school system.

The agenda is misleading and inconsistent in both form and content.

In form:

- Introductory comments often include statements and arguments which obscure, rather than elucidate, the substance of the proposed legislation. For example, the discussion of education tax credits focuses extensively on the Supreme Court's decision on the Minnesota law. However, the Minnesota law (which provides a deduction, not a credit) differs drastically from the one proposed by ALEC.
- Titles of bills and subheadings do not always reflect what the bill would actually do. For example, the "Education Voucher Act" would not only establish a mandatory statewide voucher program. It would make other fundamental changes—such as instituting a budget limitation—in state and local governance of education.

In content:

- ALEC pays lip service to the principle of parent involvement in the schools. Yet private schools would be immune to

guidelines and requirements for parental involvement. In the public schools, parents are offered a mechanistic, not necessarily meaningful role under the ALEC scheme. In addition, they would not be offered the resources or encouragement to become actively involved in the substantive aspects of their child's education.

- ALEC castigates the public education system and encourages families to abandon it. Yet ALEC wants to give children who are attending private schools or being educated at home access to public school personnel, resources and facilities.
- ALEC bemoans the loss of control of "local educators" over the schools. Yet it wants to bind the hands of teachers by requiring them to submit to an individual school board not just their curriculum, but also the teaching methods they intend to use—even before they've met the children in the classroom.
- ALEC attacks state agencies as intrusive and over-staffed and calls for a drastic cut in the number of "administrators." Yet it proposes to spend millions of state dollars through complicated new voucher and tax credit programs which will require extensive paperwork and information about families' private lives just to determine who's eligible.

* * *

ALEC offers legislators an agenda of opinions and rhetoric—not an agenda for educational excellence.

The *Source Book* is remarkable for what it lacks—realistic and thoughtful context:

- There is no statement of the goals of education or of the role of education in a diverse, democratic society.
- Elementary and secondary education are treated in a vacuum. Early childhood and postsecondary education—except for the proposed closing of teacher education programs—are never mentioned.
- No attention is given to the potential impact of the numerous education reforms enacted by state legislatures since 1980.
- What has been learned from effective schools and other educational research, evaluation and policy analysis has largely been ignored.

ALEC proposes that existing education programs and policies be judged by whether they "foster educational freedom and quality."

Both are highly subjective criteria which ALEC makes no attempt to define. And they are elusive goals, given the difficulty of achieving consensus in a time of ferment and change.

The Conference proposes instead that legislators confronted with these proposals ask and receive a substantive, factual response to the following questions before taking any action.

- 1) What does the proposed legislation actually do? Is this the same as what ALEC says it will accomplish?
- 2) How would it interact with or change existing state and local laws and policies?
- 3) Would the proposed legislation truly offer choices to families, or would it limit them?
- 4) Does the proposed bill maintain existing protections and support for children from minority and low-income families? For children who are handicapped or bilingual or who have other special educational needs?
- 5) Does the proposed bill represent the most effective, efficient and economical response we can make to a recognized educational problem or need in our state?

We make no secret of the fact that Conference believes that, with few exceptions, ALEC's model bills do not meet these tests.

The following chapters provide an argument-by-argument, section-by-section analysis of ALEC's proposals in the order and form in which they are presented in the *Source Book*. The Conference urges legislators to ensure that proposed programs to improve education in their states will do just that.

CHAPTER THREE: PARENTS' ROLE IN EDUCATION

HOME EDUCATION ACT

About 40 states—including some that have changed their laws in 1985—specifically provide for home instruction. Several other states and jurisdictions have other policies which permit it.

Although their number appears to be increasing, no definitive statistics exist on the number of families educating their children at home. Home schools would be hard to count at best. Achieving an accurate count is made harder because some states forbidding home instruction impose financial penalties and jail sentences on parents who violate compulsory attendance laws by keeping their children home from school.

The Education Commission of the States (ECS) estimated in 1984 that at least 25,000 children are taught at home. The figure was based on a telephone survey of suppliers of home-based, primarily Christian-oriented curricula. Home school advocate John Holt says that some 5,000 families subscribe to his newsletter.

ALEC does not document the source of its contention that "as many as one million" children may be in home instruction.

The proposed "Home Education Act" would provide a legal framework for parents who wish to educate their children at home because of their "religious or other personal beliefs or convictions."

Parents from many religions and many points on the political spectrum have strong reason for wanting to educate their children at home.

The main criterion for evaluating any proposal purporting to authorize or expand the basis for home instruction should be, as the American Civil Liberties Union states in its policy, to assure that the child has the opportunity to attain "at least minimal levels

of literacy in order to further preparation for effective citizenship and the transmission of democratic values."

As with many ALEC proposals, the impact of enacting the "Home Education Act" would vary considerably depending on existing state law and whether that legislation is retained or replaced by this statute.

In states without existing laws, this act would create a narrow basis for exemption from compulsory attendance and would provide only non-criminal penalties for failure to comply.

If adopted in addition to existing law, this proposal could have the effects of adding religious conviction to the list of grounds for exemption and of decriminalizing penalties for failure to comply with the law.

Legislators considering adoption of a home instruction statute should analyze this proposal in light of other current education reform efforts, particularly those relating to minimum competency requirements for graduation.

The ALEC bill would require students in home instruction to take a minimum competency test in reading and mathematics. But ALEC does not include standards for student performance on the test.

Although adoption of this or a similar statute would offer parents in four states a previously unavailable option, the number of parents able to benefit is likely to be very small. At best home education is a solution for very few.

For the 20 percent of American children growing up in one-parent families, and for the 42 percent of children both of whose parents are in the labor force, home instruction is an unaffordable luxury.

Section by Section

Section 1: Title

Section 2: This section exempts from compulsory attendance requirements any child "whose parents or persons acting as parents object to a regular school education on the basis of religious or other personal beliefs or convictions," if the child is provided with "a program of instruction in the home."

The only grounds for providing home instruction to a child would be "religious or other personal beliefs or convictions." Thus if existing law were repealed and this provision were substituted in some states, the effect could be to reduce the number of children eligible for home instruction.

Existing state laws contain a variety of exceptions to compulsory attendance laws, including walking distance from school, work release, and handicap. Replacing those laws with this provision could also reduce the number of children eligible for home instruction. In states that do not have home instruction laws, this provision would create a limited eligibility standard.

Section 3: Parents who intend to educate their child at home must notify the school district in which they reside of their intentions by September 15 of each school year. They must state that "the child is being provided with a program of instruction." But neither the "program of instruction" nor any subjects is specified.

Section 4: This section guarantees a child receiving home instruction access to public school buildings, facilities and resources, including extracurricular activities.

Although the concept of maintaining a relationship between the public schools and families who instruct their children at home is valid, this provision is so broad as to be problematical. No definition of any of the operative terms is given; no limitation is placed on access. For example, is a child receiving home instruction entitled to demand "resources" such as pencils or laboratory equipment? How is a decision to be made about the time and degree of access to school classes or to staff?

Unless terms are defined, home-school students could clearly disturb or disrupt the regular educational process and operations of the public school for a large number of students.

Section 5: The school district in which the child resides is responsible for administering a minimum competency test in reading and mathematics to each child receiving home instruction. Although a few states now require some sort of testing of children receiving home instruction, this provision would generally be a new requirement.

It should be noted that although this section requires testing, it does not require that the child meet any particular standards of competency. Thus neither this section nor any other in the bill adequately protects the child's interest in receiving instruction that meets educational standards.

Section 6: This section stipulates that parents who do not comply with the act—after they have received a written warning—can lose their child's exemption from compulsory attendance requirements.

Compulsory attendance has been generally accepted as an important component of assuring that there is a well-educated citizenry for our democracy. Therefore, most existing state laws provide stronger penalties than those proposed by ALEC for

violating compulsory attendance requirements. According to the ECS study, "most states impose a fine and a jail sentence for non-compliance. . . . Seventeen states provide for a fine alone. Mississippi has the longest jail term, at one year, and, with Vermont, the highest cash fine, \$1,000."

PARENT EDUCATIONAL PARTICIPATION ACT

ALEC has put its legislative finger on a need felt by many people involved in our school system: closer, more effective relationships among parents, administrators and teachers.

The results of assessments of student achievement do offer cause for concern. As highlighted in *A Nation At Risk*, published by the National Commission on Excellence in 1983:

- "Some 23 million American adults are functionally illiterate. . .
- Average achievement of high school students on most standardized tests is now lower than 26 years ago when Sputnik was launched. . .
- The College Board's Scholastic Aptitude Tests (SAT) demonstrate a virtually unbroken decline from 1963 to 1980. Average verbal scores fell over 50 points and average mathematics scores dropped nearly 40 points."

Parents and the public share ALEC's concern about the effectiveness of our school system. This concern has led to the educational reform movements undertaken in many states in the last five years.

Unfortunately, few of the new and comprehensive packages enacted by the states have any concerted focus on how to harness the energy and concern of parents to improve their child's educational performance. Some exceptions are Pennsylvania and South Carolina.

However, a number of programs, some in existence since the early 1970s as part of federal programs, have shown that the concern and energy of parents can be channeled to improve their child's education.

Some models focus on providing parents with a governance role in their children's schools—in decisions about administrative, hiring, discipline and curriculum policies. Others encourage parents to become more active in their child's learning activities.

ALEC's assertion that most parental involvement programs have failed is contradicted by the evidence. "Parent involvement in almost any form improves student achievement," concludes Ann Henderson in *The Evidence Grows*, a recent survey, published

by The National Committee for Citizens in Education, of studies of mechanisms for parental involvement in their children's education.

Drawing on analyses of parent involvement in mostly federally supported programs—including Head Start, Follow Through and the Title I program for education of disadvantaged children, the survey concludes that "if parents are not encompassed in the learning process, schools—and school children—are being deprived of an essential source of support."

The principle of parental involvement encompasses two types of activities—governance of education and the learning process.

The approach taken by ALEC here, however, addresses only the role of parents in governance.

The ALEC bill moves in the direction of parent involvement in decision making by requiring creation of parent advisory committees and development of "channels of communication" among parents, principals and teachers. However, it falls short of the goal because of such specific provisions as giving school administrators the power to determine which parents can be involved and how.

In addition (in this bill as well as in similar sections of the proposed "Education Voucher Act"), ALEC neither recognizes the existence of other responsible educational decision-makers (including elected school boards) nor addresses the question of how new proposed parent governance mechanisms would relate to them.

In addition, despite ALEC's lip service to the concept, this bill does nothing to encourage or facilitate the active role of the parent in the learning process.

In offering this legislation, ALEC has raised an important issue that deserves to be placed on the agenda of education policy-makers. But the language in this bill falls short on several counts:

- It does not explain how the proposed new system of participation at the individual school level would relate to existing state and local laws and procedures.
- Its proposed review of "affiliations" of teachers would violate standards of academic freedom and privacy.
- It lacks provisions to support or facilitate the active involvement of parents in the substance of their children's education.

Research shows that while most administrators and teachers have little experience in involving parents, it is possible, with training, to achieve a level of trust which makes the process work. The ALEC bill, however, smacks of veto power rather than collaboration; it assumes distrust.

Legislators are strongly encouraged to apply themselves to the important matter of parent involvement. But to develop effective

legislation, they must examine the evidence and draw on the experience of effective programs.

Above all, it is critical to accentuate the positive in developing parent involvement policies so that the result does not pit parents, teachers and administrators against each other or create the divisive, destructive atmosphere that would inevitably have a negative impact on the students as well.

Section by Section

Section 1: Title

Section 2: This section states that parents have the right to "know, to understand and to share in decisions that affect the education of their children enrolled in public schools"; and that the purpose of this law is to "protect those rights and establish regulations to preserve them."

Section 3: The terms "parent," "student" and "school" are defined. The definition of "school" excludes private schools.

Section 4: Parents are guaranteed that "at the start of the school year and throughout" they shall receive "biographical sketches and data" about the principal and teachers in their child's school, including:

- "the professional background affiliations and experience" of school staff;
- "special workshops" they have attended or "rewards received for excellence";
- "any changes which occur during the school year, especially staff changes which directly or indirectly affect the student."

The concept that parents are entitled to know the professional qualifications of their children's teachers is appropriate, but it should not be implemented at the expense of the freedom and privacy of education personnel. This section would require school staff to divulge information not directly related to their competence or qualifications.

School teachers and administrators retain the same constitutional rights as any other citizen and should be protected from having to release information regarding, at a minimum, past or present religious, personal or political beliefs or affiliations.

Requiring that information be provided "throughout" the school year is vague and could create an unnecessary bureaucratic and paperwork burden.

Section 5: Parents must be informed two weeks prior to each school semester of certain information about the curriculum:

"content, textbooks and methods to be employed," "expected level of student performance," graduation requirements, criteria for evaluation of the student, information on course sequences, and a sample of the report card.

While most teachers prepare such materials under the supervision of the principal and provide them to parents, insisting that teachers present not only curriculum but also "methods" to parents for prior approval smacks of a gag rule. It could have the same chilling effect now occurring as a result of enactment of the federal Hatch amendment.

Curriculum is approved by elected school boards and state departments of education. The most competent teachers know that their methods will need to vary according to the students in the classroom, and that determining and defining methods in advance of knowing those students is not professionally responsible.

As the American Civil Liberties Union states in its academic freedom policy, teachers' professional preparation "qualifies them to establish what shall be included in the curriculum and when and how it shall be taught, free from dictation by community groups or individual citizens"; and that it is the teacher's responsibility "to maintain a free interchange of ideas in the classroom."

Section 6: Parents must be informed about school policies relating to discipline, excused absences, school visits, etc., and schools are required to send "school information manuals" to parents' homes and to adopt "channels of communication" to inform parents and to respond to questions of parents and the public.

A worthy provision if administered well, this bill does not give parents and the public a role in setting up the "avenues of communication." For example, an insensitive administrator could choose to "communicate" through meetings at 10 a.m. or 2 p.m. when most parents are likely to be working.

Section 7: Parents are given the right to "exert influence through the proper channels" on policies developed by the school or by the school district and to "contribute to the shaping" of school decisions involving:

- evaluation criteria for staff;
- hiring and personnel review policies; and
- the process for allowing parents and the public to issue "recommendations or complaints to protest incompetent or unfit teachers and administrators without fear of recrimination."

Parents and the community should be able to express their opinions about the criteria for educational personnel decisions and to hold the elected school board accountable for the adminis-

tration of the program. Teachers and other personnel must be judged on their professional expertise through the evaluation system established for that purpose. They must not to be subjected to examination of or judgment on the basis of religious, personal or political activities or beliefs.

Complaints or recommendations of parents about individual teachers or administrators should be handled through a structured process which protects parents, as well as staff and students, from arbitrary and/or capricious accusations and decisions.

Section 8: Parents have the right to "exert influence" and "contribute to the shaping" of school policies concerning curriculum content, discipline, "construction of budgets" and program priorities.

Parents have this right now. As with some of the above provisions, this mandate to allow parents to "influence" and "shape" decisions is so vague that it is not clear what "proper channels" are or who has authority to define them.

Section 9: This section specifies two ways in which parents are to become more involved in the school. First, administrators are required to "create the appropriate channels to allow for parental influence" on administrative decisions and school policies as described in sections seven and eight. Secondly, administrators are required to "create and seek recommendations and advice" from parents through:

- Parent Advisory Committees;
- "Parent Forums";
- written means, including questionnaires and surveys; and
- "feedback systems" to inform parents and the public of decisions which have been made.

Under this section, a parent or group of parents wanting to become involved in school decisions have no recourse against an administrator who denies them this role. Although the term "Parent Advisory Committee" is used, neither its structure nor its authority is defined. The bill gives administrators the authority to create such bodies. Parent and community members do not have the right to elect their own representatives.

It is not clear whether the intent is that each school would use all four "avenues of communication" or whether a choice could be made to use fewer or different ones.

EDUCATION TAX CREDIT ACT

ALEC has laid a smokescreen of legalese to obscure the fact that it is advocating an irresponsible education tax credit that could drain state treasuries if enacted in this form.

By citing the Minnesota law, which was upheld by the Supreme Court, ALEC suggests that its proposal has the imprimatur of existing public policy. The Minnesota law permits parents to claim only a state income tax deduction (not a credit) of up to \$650 for elementary school students and up to \$1,000 for secondary school students. Allowable expenses are tuition, textbooks and transportation. The ALEC proposal, however, differs from the Minnesota law in crucial aspects.

The ALEC bill:

- Makes not just parents—but also any individual or corporation—eligible for the tax credits.
- Provides for an unlimited number of credits of up to \$500 apiece for each individual or corporation.
- Allows taxpayers to claim the credit for school supplies, required clothing and uniforms, athletic fees and school lunches, as well as for the items covered in the Minnesota law.

* * *

ALEC argues that state education tax credits will provide "choice" to parents. Although the credit could be claimed for students at public schools as well, the main effect of enacting it would be to provide a cash subsidy to private schools. As in the case of education vouchers, the "choice" which would be provided is an illusion for most families.

There would be no choice for:

- Families whose tax bill is less than \$500.
- Families who can't afford to lay out cash now and wait many months to receive that tax credit.
- Families who can't afford to pay supplemental fees above the value of the credit.
- Children who are handicapped. Only 2.7 percent of all religious school provide programs for the handicapped. (Religious schools constitute 80 percent of all private schools.)
- Vocational education students. Less than 3 percent of all non-public schools provide vocational programs.
- Poor children. Less than 5 percent of non-public schools provide services to economically disadvantaged students.

A crucial reason for not shifting the base of our education system to private schools is that such institutions are for the most part exempt from civil rights laws.

As was pointed out in the 1983 U.S. Senate debate on a federal tax credit for education, public schools must follow congressional

mandates to provide equal opportunity, but private schools are not required to do so.

The comments of U.S. Sen. Mack Mattingly (R-GA) in the debate on the federal tax credit apply equally to ALEC's proposed state tuition tax credit: "Enactment of the tuition tax credit proposal will create a dual system of education. It will create public schools for the poor, handicapped and disadvantaged and private schools for the rest."

U.S. Census data show that in 1982, 56.6 percent of private school enrollment came from families earning \$25,000 a year or more, compared with 36.3 percent of public school enrollment. Only 4.9 percent of students from families with an income below \$15,000 were in private schools, compared with 20.3 percent of those with family income of \$50,000 or more.

ALEC's tax credit proposal would reinforce this economic segregation. The National Association of Independent Schools reports that its members charge tuition of \$2,200 to \$3,100 per year for elementary school students and up to \$6,000 per year for secondary school students. Catholic schools charge less—\$250 to \$500 for elementary, \$1,000 to \$1,700 for secondary. (But they are a declining percentage of all private schools.)

Thus only a very few families are likely to be able to shift their child to a private school solely because of the \$500 credit.

Secondly, the Supreme Court decision to uphold the Minnesota deduction is no guarantee that the proposed ALEC tax credit would be constitutional. The Minnesota deduction is available only to parents of students—not to all taxpayers as the ALEC one would be.

The ALEC tax credit would cost states many millions of dollars. For example, if it had been in effect in a medium-sized state such as Indiana in 1982 and if it had been claimed for half of the state's one million school children, the loss of revenue would have been \$250 million—ten percent of the state's total revenues for that year.

A similar analysis of potential impact in a much larger state, California, produces proportional results.

"Under no circumstances are you talking about peanuts with regard to the cost of education tax credits," says Kent McGuire, senior policy analyst of the Education Commission of the States.

Further, McGuire asserts, a tax credit is a fiscal mechanism that "doesn't directly focus on any of the issues" of how to improve educational quality. "We know from research that none of these mechanisms lead to improvements. What is important is how the

schools work with staff, how they're organized and the like," McGuire observes.

While ALEC implies that tax credits would somehow result in higher quality education, its bill offers no basis for measuring progress toward that goal. Nor does it require any fiscal accountability on the part of the subsidized schools.

McGuire reports that education tax credit or deduction bills were introduced in about a dozen states during the 1985 legislative sessions, but that "none of them got anywhere."

The general public, too, has rejected education tax credits for support of private education in a series of referenda in individual states over the last nearly 20 years.

Section by Section

Section 1: Title

Section 2:

(A) This section creates a tax credit for "any individual taxpayer"—including corporations—to cover "educational expenses" of an unlimited number of "full-time students." The credit may only be used once—i.e., if a student, for example, claims the credit, his or her parents may not.

(B) This section sets the maximum amount of credit at \$500 "for any taxpayer who qualifies," for each student whose expenses are paid. The use of the term "qualifies" is misleading, since every taxpayer in the state would be eligible as long as the student for whom the credit is claimed attends school full time.

No limit is set on the number of students for whom the credit may be claimed. Thus a corporation could pay the expenses of many students and reduce its tax bill by thousands or even millions of dollars.

Furthermore, a wealthy individual could choose, for example, to pay the expenses of a large number of students attending a religiously supported school. The taxpayer would probably benefit more from doing this than if he or she made a charitable donation of the same amount to the same institution—because the deduction would be taken off pretax income, whereas the credit is an actual reduction of the tax. The donor also would be able to "double dip"—take the donation off the federal income tax as a deduction and off the state tax as a credit.

Expenses eligible for the credit include:

- tuition and fees to public elementary schools, vocational-technical schools (including post-secondary ones), and proprietary schools (not including cost of religious instruction);

- required books, except those used for religious instruction;
- "required school supplies;"
- "required clothing," including uniforms;
- school bus fees;
- athletic fees; and
- up to \$1 per day for school lunches. (Including this item virtually guarantees that, at a minimum, every parent would be able to claim a credit of close to \$200 per year to cover the cost of sending their child to school with a brown bag lunch every day.)

(C) This section appears to make it illegal for a taxpayer to claim the credit if the taxpayer already claims the expenses as a federal or state tax deduction. However, if a federal tax credit were implemented, a taxpayer could claim the credit on both state and federal taxes. Taxpayers are also required to keep records of the educational expenses claimed for three years.

(D) Amount of the tax credit may not exceed the state tax liability of the taxpayer. The benefit is most valuable to those taxpayers who have an annual tax bill of \$500. Low-income people would not reap a corresponding benefit.

(E) This section exempts schools for which tax credits are claimed from "government regulation," which are undefined. If a school is now subject to government regulations for other reasons, it would continue to be. But private schools could not be made subject to additional regulations just because a child for whom the tax credit is claimed is in attendance.

This raises a constitutional issue. Under this bill a private religious school could receive virtually all of its support from public sources. Existing case law does not define the degree to which such schools would be subject to civil rights laws, labor standards and similar types of regulations.

This provision runs contrary to good public policy and common sense. If private schools are to increase their intake of public money, they should have more stringent accountability requirements, not weaker ones.

EDUCATION VOUCHER ACT

If ALEC were to succeed in enacting this one bill and none of the other proposed in this document, a significant part of its comprehensive agenda would be achieved. Thus it is critical to examine all of its provisions carefully.

"Education Voucher Act" is deceptive camouflage for a much more sweeping bill which would, among other things:

- mandate creation of a universal, statewide education voucher system within three years;
- impose a state education budget limit, requiring drastic spending increases in some states and decreases in others;
- require every public school in the state to choose a school board with authority to "select its principal and approve its budget";
- substantially reduce the ability of state education departments and local school boards to monitor and account for expenditure of public education funds; and
- enhance the ability of private schools, including those with religious affiliations, to receive tax funds, while weakening or deleting civil rights, educational standards, personnel procedures and similar requirements.

In examining this proposal, legislators should note that starting with Section 8, the bill includes provisions that are broader than or not specifically related to creation of a voucher program.

* * *

Vouchers for financing elementary and secondary education are "new" only in the sense that they are virtually an unproven method of providing quality education.

The concept appears to be a simple one: parents would be given vouchers worth a certain amount of money to be spent for the education of their children at any approved institution, public or private.

As ALEC noted in its November 1981 newsletter, *The State Factor*, the concept has been advocated for many years. Further, the newsletter points out that "there were many notable attempts in the 1970s" to institute education vouchers, either through federal funding or passage of new state laws.

Despite this long history and despite attempts at legislation creating education vouchers in a number of states, to this date there is no state or local system in the United States that has adopted the policy or operates under it.

The 1985 Gallup Survey on Education reports that "opposition to a voucher system has grown five percentage points" between 1983 and 1985, and that "the American public is almost evenly split over whether the United States should adopt a voucher system."

Given this continuing indication of public interest in the voucher idea, it is critical to understand that the U.S. experience with voucher or voucherlike programs is radically different from what ALEC proposes here.

Programs that have been implemented to achieve desegregation or to assist youngsters with handicaps or other special needs have targeted either a particular, limited group of children or a limited group of schools. None of these has mandated a statewide system in which all public schools would operate under a voucher system.

"There has not existed an educational voucher approach in the United States," writes Henry Levin, director of Stanford University's Institute for Research on Educational Finance and Governance. "Each author or promoter of vouchers has set out a specific set of arrangements, and these often differ markedly from plan to plan."

One of the best known "voucher experiments," Alum Rock, which was funded by the U.S. Office of Economic Opportunity in the 1970s, was mounted only after OEO failed to convince various larger jurisdictions with more schools and more students to conduct one.

"Vouchers... would have required the renegotiation of all treaties binding a city school system together," point out David K. Cohen and Eleanor Farrar in "Power to the Parents?—The Story of Education Vouchers," a 1977 article about Alum Rock and other voucher experiments in *The Public Interest*. They conclude that "the problem was less monolithic resistance than decentralized uneasiness" on the part of both education professionals and the community at large.

The limited experience of voucher experiments is simply not comparable to what ALEC proposes here. For example, initially Alum Rock did not even include private schools. When the legislature voted to allow them to participate, it established strict conditions. After the end of the experiment, the project was discontinued.

Likewise, neither recent proposals by several governors nor more long-term "interdistrict transfer" policies in effect in states such as Vermont produce evidence that the extremely broad, universal voucher system mandated by the ALEC proposal would truly offer all parents a real "choice" or create the types of programs and schools to meet the needs of all children.

Vouchers remain unproven for powerful reasons. Broad voucher plans perpetuate unequal educational opportunity, set up burdensome administrative problems, engender privacy considerations, and present constitutional problems.

"The Friedman plan cited by ALEC, for example, would provide a flat grant or a tax credit to be used at any school, with no restrictions. This plan assumes that public schools will accept the

voucher as payment in full, but private schools would probably charge more. Under such a model it is possible that only affluent families would choose private schools," notes Patricia M. Lines in "A Briefing on Tuition Vouchers and Related Plans," which appeared in the Spring, 1985 edition of *Footnotes*, published by the Education Commission of the States.

Stanford University's Levin was deeply involved in analyzing a voucher proposal rejected by the California legislature in 1979. That experience demonstrated to him some of the practical problems of creating a universal voucher system.

"We realized that administratively you'd have to move from 1,043 school districts to [working directly with] 5 million youngsters. Every child would have had to be registered at a certain age, to be diagnosed for different educational needs to determine whether their education is fulfilling the mandates of the compulsory attendance law. This would require putting information on computers, keeping up with people's home lives. It would have been a monstrosity."

"The only alternative would be to send people checks according to the number of children they have" and require no further accountability, he concluded in a recent interview.

A third group of problematical, unresolved issues raised by voucher proposals center on the question of constitutionality. Two 1985 Supreme Court decisions (*Aguilar v. Felton* and *Grand Rapids v. Bell*) regarding the use or sharing of public resources by private schools suggest that additional constitutional questions would be raised about ALEC's proposal for wholesale conversion to an education voucher system in which private schools might receive the majority or even all of their funding from tax sources.

ALEC further argues that "fear and trepidation" regarding the divisiveness and inherent unfairness of vouchers are unfounded "when one examines the results of various voucher systems in other countries."

This contention misses the mark on at least two counts. As Levin puts it, "There are no voucher systems (comparable to this one proposed here) in other countries." Private school subsidies offered in Australia, Holland and other countries, he points out, differ substantially both in form and in historical context.

In the interview Levin also pointed out that the maintenance of a diverse, democratic society depends to a large degree on the ability of its citizens to have a free exchange of ideas and to tolerate dissent. Research in countries where students attended schools segregated by religion shows that their backgrounds produce rigid, intolerant adults. "We have more ethnic groups, more

immigrant groups than most societies," he points out, "and if children are not exposed to varying points of view, there is no hope that they will be able to work together in a democracy." This research and other relevant analyses can be referenced from *Educational Vouchers and Social Policy* by Henry Levin and published by Stanford University's Institute for Research on Educational Finance and Governance in 1979. (For additional resources see Appendix A.)

"Choice" in education has the ring of a principle which all Americans could endorse. Defining it is another question. Among those who recognize the complexity of the issue are the nation's governors, who through the National Governors' Association will devote considerable time and effort in the coming year to seeking the answers to a range of questions about how this goal of choice can be implemented in a democratic society.

Legislators too, would be well advised to seek some answers before opting for simplistic, vaguely defined solutions.

* * *

The ALEC voucher system would turn the clock back for decades. It would deny:

- parents the right NOT to enroll their child in a voucher system;
- children the right to be admitted to a private school regardless of sex or religion or handicap;
- children the right to an education that exposes them to diverse viewpoints and to the diverse citizenry of our society;
- many teachers the right to organize and to fight for fair working conditions and compensation;
- taxpayers the right to know how their hard-earned taxes are spent; and
- states the right to determine educational funding levels based on their own needs, resources and priorities. School finance, organization and structure would be turned on its head as every local school would determine its own program. In this anarchic situation no one would be obligated to provide resources for schools.

Section by Section

Section 1: The title does not reflect the broad scope of the changes in state and local education policy which would be made

by the act. The bill does not simply "authorize" creation of a state voucher system. It mandates a statewide top-down system.

Section 2: The goals of improving educational quality and educational opportunity are never mentioned again. The legislation does not define them or suggest how they might be measured. Furthermore, it would deprive students, parents and school personnel of private schools, which may receive substantial public support, of several basic civil rights protections.

Section 3:

(A) This section defines "voucher."

(B) This section states that a voucher may be used for services to students in kindergarten through twelfth grade with no age limit on recipients of the voucher.

(C) Under this definition of "school," it appears that any individual or entity—regardless of professional qualification—could receive a voucher financed with public funds, unless existing state law contains a more precise definition of private school.

(D) This section defines "parents" who may receive a voucher on behalf of their children.

(E) This section defines "student."

Section 4: This section requires state and local education departments to implement a voucher plan within three years. It requires the state to develop the implementation schedule along with local school districts and private schools.

The general public, local school districts and parents have no specified role in: determining whether to adopt a voucher system; designing the system; or deciding whether they want to participate in it.

Section 5:

(A) This section establishes a hierarchy of voucher payments for various types of students and schools. Basis of the calculation of the dollar value would be the average public school expenditure per pupil. (Nationally the average is about \$3,200.)

Parents who want to enroll their child in a private school would receive a voucher worth 75 percent of a standard public school voucher. According to the U.S. Bureau of the Census, the median tuition level at all private schools was \$1,029 in 1982. The median for church-related schools was only \$827.

However, these data mask a tremendous range of expenses. The National Association of Independent Schools says average tuition of its member institutions is \$2,200 to \$3,100 for elementary school students and \$3,800 to \$6,000 per year for secondary students.

Since private schools will be allowed to impose "tuition add-ons or parental supplements" the actual cost of attending a private school could be substantially more than the voucher, thus reducing the "choices" available to poorer families who cannot afford to pay the supplemental costs.

Families who want to enroll their children in a vocational school would receive a voucher equal to only 50 percent of the voucher for "a public school." It is unclear whether the intent is to offer the 50 percent voucher only to children who attend private vocational schools or to those who attend public vocational schools as well. This provision is not elaborated on, but as written seems to discourage vocational training.

(B) This section requires the state to provide an additional voucher to parents of handicapped children. The state department of education would be required to put a price tag on "the educational difficulty presented by a particular disability." The value of the supplementary voucher must be at least equal to that of a public school student, but not more than twice as much. Low-income parents of handicapped children could also receive additional funds (up to 50 percent of the value of a public school voucher) to cover costs of transportation and supplies.

Section 6: This section mandates use of elementary and secondary state and local school budgets for vouchers without providing for any input from local authorities, parents or interest groups in the decision to create a program or in determining the amount of funds to be used. It also mandates use of federal funds for vouchers, appearing to allow the federal funds to supplant state ones.

Section 7: The title ("Annual Changes") does not represent the content. The language in this section is so confusing that the intent is undecipherable. One portion which is clear states that voucher values shall vary for students with special needs (section [A]); and for schools receiving more or less than they presently receive (sections [B] and [C]).

Section 8: This section confers on state departments of education the power to issue and pay vouchers and administer their own funds. The bill does include a "repealer" (Section 20). Without knowing the contents of this section it is impossible to determine the full implications of Section 9.

In states that require private schools to have certified teachers or to meet requirements such as civil rights laws and labor standards, the minimal effect of this section would probably be to negate that existing role with regard to private schools. Yet these schools would probably receive more public funds.

With regard to public schools, this section gives the state department authority only to "supervise" their "facilities." Depending on what the "repealer" contains, the result could be abdication from enforcement of civil rights laws, standards for teacher competency, student proficiency, and labor standards, as well as activities such as curriculum development and innovation.

Section 9: This section authorizes the state department of education to establish an annual schedule for payment of vouchers to parents and to schools and "reasonable requirements for verifying enrollment."

Section 10: This section requires the state department of education to "allot public school facilities on a cost-effective basis based on public school needs." Where "excess facilities" exist, private schools would have priority over other possible users—apparently even if they couldn't afford to pay for the upkeep or if the local authorities could receive more rent for or sell the property at a profit.

This section could be in conflict with 1985 Supreme Court decisions on what constitutes excessive "entanglement" of religion with the public education system and what types of arrangements have "a primary effect of advancing religion."

Section 11: This section creates a statutory limitation on the state education budget. It would have to be no less than the national average per-pupil expenditure times the number of children participating in the voucher program; and no more than 20 percent above that amount.

In the 1983-84 school year, the national average per-pupil expenditure was \$3,183. However, the average ranged from \$2,034 per pupil in Utah to \$6,378 in Alaska.

In order to comply with this paragraph, Utah and other states significantly below the national average would be required to make major increases in their state education budget. States significantly over the average would have to make cuts.

This provision is an abstract formula bearing no relationship either to disparities in educational needs, resources or costs in various states, nor to the political realities. It is designed solely to provide a powerful incentive to move all students into a voucher program—either public or private.

Section 12: This section prescribes a system of priorities for enrollment of children in public schools. First priority goes to children living in the attendance area; second to children in the district who enroll "first come, first served;" and third to youngsters residing outside the district.

No school district may deny its residents permission to attend school outside the district.

This section states that public or private schools may not deny a student admission "solely" on the basis of race, color or national origin, yet only 6.5 percent of private schools students in grades 1-12 were black in 1983. The comparable percentage of black students in public schools was more than twice as high.

A private school that does not accept federal funds could deny admission "solely" on the basis of religion, sex, handicap, or language. About 87 percent of private schools are religiously affiliated, and of those, only 2.7 percent provide programs for the handicapped.

Section 13: All public schools "shall be required" to participate in the voucher system but private schools—even if they receive public funds—will not. There is no mechanism for community or parent participation in a decision about whether to establish a voucher program. Despite ALEC's claim of commitment to local control, this proposal destroys local government decision-making and replaces it with a state mandated program.

A non-public school may decide each year whether to participate or to "remain completely independent," although this last phrase is not defined.

A key element lacking in the ALEC voucher scheme is assurance that parents will have access to adequate information by which to select a school for their child.

Section 14: Parents of students in each public school are required to elect a "school board" by secret ballot. Composition of the board is not specified.

The board shall have power to select the school principal and approve the school budget, although it is unclear how this policy would relate to existing laws governing these decisions. The principal and the board of each school together would have authority "to set curriculum, hire and fire employees, and negotiate with unions." This section declares that each school would be an "autonomous unit" and thus confers additional authority not specified here (for example, regarding school construction or hours of operation) on the individual school. It assumes that a group of parents will automatically provide a better program, leaving no role for the community, educators or business. Since each school would be autonomous in this scheme, there would be no articulation of program between elementary, middle and high school. An employer hiring a high school graduate would have to be familiar with the school attended to know if standards exist.

By requiring that "in no case shall regulations be imposed on public schools which are more restrictive than existing ones," this section paves the way for lowering standards of competency for students and standards of employment for teachers, and makes it impossible to institute new regulations. For example, a school district that did not already have a regulation against hiring a convicted child abuser as a teacher might be prohibited from enacting one.

Section 15: The only standards that a private school must meet in order to receive voucher payments are "state and legal requirements for fire, safety and health." Neither state nor local jurisdictions may augment such requirements. Thus even if a majority of residents or parents in a local jurisdiction wanted to require private schools, for example, to meet civil rights laws, proficiency standards, accreditation requirements or labor standards, they would lack the authority to do so.

This section stipulates also that a private school that mingles voucher funds with federal funds cannot be subjected to requirements imposed on recipients of federal assistance, thus removing any programmatic equality or standards mandated by federal laws, whether for handicapped children or civil rights.

Section 16: Private schools that are "starting" may not be subjected to requirements beyond those in Section 15 (fire, safety and health). The section prohibits "regulations hampering school development," although "school development" is not defined.

Section 17: This section requires a students paying a voucher to a public or private school to be retained in the school "unless he or she is deriving no substantial academic benefit or is responsible for serious or habitual misconduct."

It allows, but unlike ALEC's proposed "School Discipline Policy Act" does not require, each school to establish a code of conduct and discipline with "fair notice and procedures" and to regulate academic dismissals. There is no requirement that the code spell out the due process rights of students or others involved.

Section 18: This section makes "any person or institution who defraud the system" subject to prosecution. The effect of this would depend on existing state laws defining "defraud," "full and multiple restitution," and other terms.

CHAPTER FOUR: TEACHERS' ROLE IN EDUCATION

ALTERNATIVES TO TEACHER CERTIFICATION

An appropriate subtitle for this chapter of ALEC's agenda might be "Throwing Out the Baby with the Bath Water."

ALEC's proposal to throw out the "bath water" of teacher certification and tenure would destroy a complicated and subtle system which—despite its failings—has served generations of American students.

It would threaten the right of American parents to be assured that their children are taught by persons hired for their professional qualification—rather than for their political or religious beliefs or their connections.

For decades most states have required teachers to have a bachelor's degree plus courses in teaching methods. State and local school boards—contrary to ALEC's allegation—can and do impose additional requirements. There have recently been a large number of studies on the issue of teacher certification which contain extensive recommendations. (For more information on teacher certification, contact the American Association of Colleges of Teachers of Education [AACTE] or the National Education Association, as referenced in Appendix A.)

ALEC's approach to teacher proficiency opposes current approaches on achieving excellence. It calls instead for the "complete decertification and deregulation of teaching," including repeal of certification requirements and closing the doors of teacher education institutions.

The major players active in American education, including teachers, parents, schools of education and teacher unions, agree that technological and social change have taken their toll on teachers and on the system for providing initial and continuing credentials. Major changes are required.

"Societal changes and recent expectations for schools have not been accompanied by a needed major reconceptualization of teacher education programs," says the American Association of Colleges for Teacher Education, acknowledging that "many schools, colleges and departments of education" have responded to change with "a piecemeal modification" of their teacher education programs.

National education leaders, including Mary Futrell, president of the National Education Association, and Albert Shanker, president of the American Federation of Teachers, have delineated major programs to accomplish the goals of improved preparation and certification of teachers.

State legislators have already taken numerous actions to develop measures to respond to these needs.

Their interest has resulted in at least two important new trends in teacher certification:

- the requirement—now in effect in 38 states—that teachers take the National Teachers Examination or a comparable test in order to be certified; and
- the adoption of so-called "alternatives to certification," ranging from New Jersey's plan to recruit uncertified teachers and provide them with 90 days of pre-classroom training to California's "mentor teacher" program. (A state-by-state list of alternatives to certification is available from the AACTE, 1 Dupont Circle, N.W., Washington, D.C. 20036.)

ALEC in fact takes credit for instituting many of these requirements through the "Teacher Proficiency Act" it offered as a model several years ago. So it is particularly ironic that ALEC would opt to destroy the alternatives that have recently been put in place.

ALEC's proposal to open teaching to all comers occurs at a particularly inappropriate time—when the nation is facing the urgent need to institute reforms to make education more effective.

Placing the responsibility for evaluating teachers' credentials in the hands of principals and superintendents, as ALEC proposes, would offer no more assurance—and probably less—than the existing system that qualified teachers would be hired.

"Principals have little time for evaluation," because of other responsibilities, points out Rand Corporation researchers Arthur Wise and Linda Darling-Hammond. "But most importantly, principals do not have specialized subject-matter or pedagogical knowledge of all teaching areas in which they are expected to evaluate teachers."

ALEC's proposals also run contrary to the current of public opinion. The NEA's 1985 Gallup poll on education found that:

- 62 percent of persons interviewed believe that "standard teacher exams should EQUALLY test both the basic skills teachers may need and their knowledge in the specific subject areas" in which they will teach;
- 69 percent believe that courses in teaching and education should be required of all teachers;
- 78 percent would extend testing to all teachers as a condition of employment; and
- 92 percent of respondents who believe their school system has trouble attracting teachers —when asked if certification standards should be lowered—said "no."

ALEC's proposal to do away with tenure shows a disregard for the protections the system offers not only to teachers, but also to the community.

More than 70 percent of school personnel are covered by tenure laws, many of which have been enacted in the last 25 years.

Abolition of tenure and certification would convert the public schools into a sort of roulette game in which teachers, parents, principals and school boards could never be assured of an adequate supply of qualified professionals.

As in the case of certification, many attempts are underway to re-evaluate and, in some cases, restructure the tenure system to ensure that it stimulates the continuing evaluation and education of teachers as well as guarantees the necessary supply.

Section by Section

ALTERNATIVES TO TEACHER CERTIFICATION

ALEC proposes four bills under the rubric of "Alternatives to Teacher Certification" and labels them "A," "B," "C," and "D." Each consists of only one sentence. These conflicting alternatives show a philosophy of "destroy what is" by whatever means is politically expedient.

In ALEC's words, "Bill A would abolish teacher tenure as well as teacher certification. Bill B would abolish teacher certification, grandfather presently tenured teachers, and do away with the possibility of tenure for future teachers. Bill C would retain teacher tenure, but abolish teacher certification. Bill D, the least interesting one, would retain teacher certification, but also allow the employment of noncertified teachers."

Bill A: This bill provides that "qualifications for teaching in the public schools . . . shall be determined by the superintendents of public school districts and by the principals of public schools."

Abolishing tenure and certification and replacing them with this broad authority would create more problems than it would solve. Which superintendents will decide who is qualified to teach? Which principals? Each superintendent for his or her district? Each school principal?

Criteria for teachers in adjoining school districts or in the same state could vary radically, creating barriers to recruitment of teachers at a time when they are in short supply. The way is left open for decisions that are not based on providing quality education like the old "spoils system" including "who do you know?", not "what do you know?"

Bill B: This bill would protect current teachers from changes in qualifications for teaching but would require that qualifications for "all teachers employed after the effective date" be determined by superintendents and principals.

It is in effect a fallback position from the extreme one proposed in Bill A.

Bill C: Under this bill, tenure would be retained. But certification would be abolished. Superintendents and principals would have the right to determine "qualifications for the initial employment of teachers in the public schools"

Bill D: If the blanks in this model bill were filled in according to ALEC's intent, it would retain existing certification policies but give superintendents and principals the option of substituting their own requirements instead.

EXTRAORDINARY PERFORMANCE PAY FOR TEACHERS ACT

ALEC discusses merit pay for teachers as if it were a revolutionary idea.

"Merit pay plans have been tried in many forms, in many places, and they have failed. A close analysis of the tenets of merit pay and the realities of teachers and teaching suggests that competitive pay will not serve as an incentive for good teaching and may, in fact, interfere with other efforts to improve the schools," wrote Susan Moore Johnson in the *Harvard Educational Review* in 1984.

Johnson reported there have been two major waves of attempts to institute merit pay for teacher—one in the 1920s and one in the 1960s. But, she notes, "by 1972 the estimated percentage of merit pay plans in effect had dropped from 10 to 5.5 percent."

According to the U.S. Library of Congress, a 1979 study by the Educational Research Service (ERS) in Arlington, VA found that "only 4 percent of the responding districts were currently using merit payment plans. . . . Another 4 percent were considering implementing a merit pay program and 8 percent reported that they had, at one time, tried a merit program, but had since abandoned it."

ALEC's apples-and-oranges analysis confuses the concept of "career ladders"—in, which teachers move step-by-step to increased responsibilities, for which they are paid more—with merit pay, in which a very few teachers are paid at a higher rate than the others in the school on the basis of outstanding performance.

The analysis fails to grapple with the underlying reasons merit pay has failed in the past. It suggests that merit pay be awarded to teachers "who demonstrate exemplary teaching performance" but makes no constructive suggestions about how consensus regarding performance may be reached or what constitutes it.

It is this very lack of consensus that has stymied the many experiments conducted over the years.

ERS found that the most significant unresolved barrier to successful merit pay plans is the weakness of existing teacher evaluation systems. "The most frequently cited evaluation problems are difficulty in determining who deserves extra pay, no assurances that ratings were accurate, and subjectivity and inconsistency among evaluators," reported the Library of Congress.

Other reasons plans were abandoned included problems with administration, personnel, financial factors and collective bargaining.

Perhaps even more damning than this experience of repeated failure is evidence suggesting that financial reward is not in fact the most effective way to attract and retain good teachers.

"Recent research suggests that incentive strategies for keeping our best teachers in schools should center on the workplace rather than on the pay envelope," concludes Johnson from her review of the literature.

Fenwick W. English, superintendent of the Northport-East Northport Union Free School district in Northport, NY, also argues that "merit pay as simple performance pay" will not solve "the two most critical problems now facing the teaching profession. . . (1) the lack of teachers with quality education backgrounds, and (2) the lack of career incentives sufficient to retain the most talented teachers." English's article, "Merit Pay: Reflections on Education's Lemon Tree" appeared in the December 1983/January 1984 issue of *Educational Leadership*.

A 1985 teacher poll by ERS suggests that American education may again be turning toward merit pay systems as a way to resolve problems of quality and incentive. More than ten percent of teachers interviewed said they expected to receive some type of "merit or incentive pay" this year.

However, as English points out and as a review of state legislative actions shows, the current movement is not a monolithic, simplistic accounting system, but a combination of appropriately varied approaches to restructuring teachers' responsibilities and salaries.

It is not possible to examine in detail here the various approaches that have been proposed and are being tested. The important point is that they exist and that teachers and politicians alike are engaged in an inquiry designed to determine the types of incentives and rewards that will be most successful in various settings.

By contrast, ALEC would require every school district in the state to adopt a rigidly defined merit pay experiment.

Further, ALEC would enshrine in law a teacher evaluation system that is exceedingly vague and exceedingly detailed at the same time. On the one hand, the law would require school boards to select "a good instrument for evaluating teachers' performance." On the other, ALEC asks legislators to enact a bill that contains detailed mathematical formulas for evaluating teachers.

Section by Section

Section 1: Title

Section 2: Purpose of the bill is "to require school districts to design and implement extraordinary performance pay plans" for outstanding classroom teachers.

Section 3: This section consists of definitions of the terms "academic year," "board" "school" (limited to public schools), "teacher" and "extraordinary performance pay plan." The last term is defined as being "supplemental to the regular salary plan of the school district, and awards teachers exclusively for classroom practices," meaning that the supplemental pay could not be awarded for administration, curriculum, mentoring new teachers, or other non-classroom performance.

Section 4: This section requires every school district to adopt a three-year trial "extraordinary performance pay plan" which covers all teachers in the district except "new" or "beginning" ones, who may opt to participate if they so desire. It requires that

even teachers who have received "performance pay" in the past must participate in the plan in order to receive it in the future.

Like the entire proposal, this section proposes that a no-alternatives, rigid merit pay plan be put into effect in all school districts. It thus runs counter to other ALEC legislation that calls for local school building autonomy.

Section 5: This section requires that "half of any new funds appropriated for teacher pay shall go toward the school districts extraordinary pay plans."

It is extremely difficult to interpret this imprecise, undefined provision. Is the intention to divert new appropriations from teacher pay raises based on traditional scales into the merit pay system? Beginning salaries for teachers average \$15,400. New funding is frequently aimed at increasing this level to recruit and retrain teachers in a time of shortage. Recently New Jersey, under the leadership of Governor Thomas Kean, passed legislation to raise beginning salaries to \$18,500. ALEC's legislation would have doubled the cost of this proposal.

Section 6: This section requires every school board to:

(A) Limit the number of teachers who may receive merit pay to 15 percent of those in the district, and to 15 percent of those teaching in any one school. It requires the board to set limits on the amount of the merit pay, specifying that teachers who are receiving the pay for the "second, third, fourth time, etc." should receive more money. There is no reason to support the thesis that paying a "magic" 15 percent of teachers a bonus will improve education.

(B) In consultation with local administrators and teachers, "choose a good instrument for evaluating teachers' performance in the classroom." The instrument must "clearly define evaluation criteria and link the criteria with some kind of point system." A series of subsections lists the types of evaluation criteria and the numerical values which ALEC would assign to them.

(C) "Lay out procedural rules for evaluating teachers' performance." It then mandates six "procedural rules," which are not rules but components of the proposed evaluation system. They include pre- and postevaluation interviews or meetings with teachers, classroom observation and review of indicators of student progress; and postevaluation questionnaires and assessments to be made by teachers and evaluators.

It is inappropriate to include such detailed technical specifications for an evaluation system in a statute. (This provision is also inconsistent with other ALEC proposals, which would provide for a parent and community role in establishing evaluation criteria.)

Legislators who wish to delve more deeply into this issue should refer to a useful analysis entitled *Teacher Evaluation: A Study of Effective Practices*, by Arthur E. Wise and others, published by the Rand Corporation in June, 1984.

Section 7: The principal of a school is required to:

(A) "Follow and/or implement" Section 6 (C) and other regulations adopted by the board.

(B) "Organize and select evaluators." The section mandates that a teacher be evaluated by the principal, the department head or immediate supervisor, an expert instructor from another school district and the teacher's students.

(C) Decide who should receive the performance pay, based on points received in evaluations and the number of teachers in the school to receive it;

(D) "Confer with teachers awarded performance pay to identify the type of reward they would prefer," including extra classroom resources, college tuition, conference attendance, etc. For the first time in the legislation, the possibility of making "rewards" other than cash is raised. As written, the section suggests that recipients of the pay be asked what type of reward they would prefer. This information, however, would be irrelevant because the statute does not contain authority to distribute any award except "a pay plan."

This section both mandates a principal to implement the merit pay procedures in a school and specifies procedures for doing so. A particular school or principal may not refuse to participate in the "trial." The principal has almost no discretion in implementing the system, because the evaluation procedures, categories of evaluators and process of making the awards are all specified. The result would be a chaotic situation as each school in a district would have a different plan.

SCHOOL DISCIPLINE MEASURES

Discipline in our schools has been and continues to be a problem.

However, the dire picture of "crime, violence and disorder" painted by ALEC exists neither in the majority of our schools nor in the minds of many teachers and citizens interviewed on this subject in recent years. It seems designed to raise the specter of disorder, unruliness and fear to mandate state action in areas customarily under local control.

The first, essential step before enacting new legislation is to determine whether it is warranted by the seriousness of the prob-

lem. The information ALEC gives us here is useless for this purpose.

ALEC cites the data on school crime and violence presented in the testimony of Gary Bauer of the U.S. Department of Education before Congress in 1984. Yet Bauer himself says in that testimony that "there are considerable year-to-year variations in many of these statistics and, with the exception of thefts against students (which decreased) between 1973 and 1980, there are no clear cut trends."

In the absence of a comprehensive update of the 1976 data which formed the basis of the *Safe Schools Study* published in 1978 by the National Institute of Education, Bauer and ALEC put forth a hodgepodge of statistics and reports that tell us very little about the true nature of the problems of discipline and violence in the schools.

In 1982 the National School Boards Association (NSBA) surveyed 100 local school districts in the Los Angeles, Detroit and Chicago areas about violence. Sixty-two percent of those responding reported no incidents of personal attack at all; 23 percent reported less than one attack per 100 students.

NSBA also reports that most school districts in the U.S. have some type of school discipline code, many of them adopted quite recently.

Responsible action to address this problem requires a thorough analysis of the extent and nature of school violence and the discipline problems in each legislator's state. Legislators must judge whether existing law and policies address these problems before considering additional legislation.

An important component of such an inquiry must be seeking out and analyzing the opinions of teachers and parents and of the community-at-large.

Educational Research Service has polled teachers and principals on these issues in recent years, distinguishing between the teachers' views on the problem of "classroom discipline" and their concern about the potential violence against themselves or their students in the school.

In 1985, teachers were asked: "How does the problem of maintaining classroom discipline compare to your experience five years ago?" About an equal number characterized the problem as "more difficult now" (37.7 percent) and "about the same" (37.2 percent). About 22 percent felt the problem was less difficult now.

But this attitude is placed in perspective by responses to other questions asked by ERS. When asked to rate items on a list of "fac-

tors that detract from quality teaching," teachers ranked disruptions resulting from classroom discipline problems eleventh on a list of major problems, behind factors including too much paperwork and class size.

The total list of factors detracting from quality teaching contained eighteen items. Concern about potential violence against themselves and/or their students was placed at the bottom by teachers—with 1.6 percent expressing major concern about violence against themselves, 2.2 percent expressing major concern about violence against their students.

Further, the National Education Association-Gallup Poll summary of some 15 years of public opinion polls concludes that:

"It would be a mistake to exaggerate the dimensions of the discipline problem in schools. . . . It seems reasonably clear that crime in schools is not increasing by quantum leaps each semester. It seems rather to have stabilized and even, in some cases, to have decreased. . . ."

These polls suggest, among other things, that legislators must be clear about whether they are documenting problems of classroom discipline, which are most likely to involve students, or problems of school crime and violence, which are more likely to involve outsiders. The remedies for the two problems are likely to be quite different.

As stated in the agenda, ALEC proposes enactment of four bills similar to some that have been in effect in California since 1984. They are the "Campus Crime Act," "School Access to Juvenile Record Act," "Access to School Premises Act" and "School Crime Report Act."

They were offered in the legislature in an attempt to implement a new "victim's rights" provision of the state constitution. However, the versions adopted in California differ significantly from those proposed by ALEC.

Two major concerns arise from ALEC's four-part package. First, are the bills in fact an appropriate remedy to problems of school discipline or violence? Second, do the bills pose threats to confidentiality or juvenile records? California legislators built into their statute a series of confidentiality protections that are not in the ALEC bill.

A fifth bill proposed in this section, the "School Discipline Policy Act," would require the state to adopt guidelines that school districts would be mandated to follow in creating disciplinary codes.

Such codes can provide an important framework for addressing discipline problems within the school unit. However, the specific

code proposed by ALEC fails to offer students adequate due process protections. States lacking adequate codes should consult other models before endorsing legislation.

The loophole in the ALEC approach to ensuring safe and orderly schools is its failure to offer constructive rather than punitive and mechanistic remedies. Just, flexible remedies are supported by the public, including by parents of both public and private school children.

The 1985 Gallup Education poll asked members of the public "which of these possible solutions you think would be most helpful in improving school discipline?" As the analysis explains, "the public responds most favorably to those solutions that involve discussion and instruction, for both teachers and parents":

- 64 percent endorsed "classes for teachers on how to deal with problem children";
- 62 percent chose "discussion groups with parents of problem children"; and
- 50 percent advocated "required classes for parents of problem children."

No remedies of this sort are even mentioned in ALEC's discussion. ALEC's "school crime" package strengthens the role of the state. At the same time the other proposals—vouchers, decertification, etc.—diminish or abolish the state role in favor of placing more authority in local schools (at the expense of school districts). This gives the impression that control is much more important than education in ALEC's schemes.

Section by Section

CAMPUS CRIME ACT

Section 1: Title

Section 2: This states that the purpose of the act is to increase penalties for assault and "alternative felony-misdemeanor punishment" for battery when the victim is any person on school property.

Whether this law would in fact increase penalties depends on existing state law.

Section 3: School is defined to include all types of public and private schools, including vocational centers, evening programs, etc.

Section 4: This section sets the penalty for assault committed on school property at up to \$1,000 and one year in jail, or both.

Section 5: This section establishes the same penalties for battery committed on school property.

Section 6: This section states that no funding will be provided because costs would be incurred only if the act creates a new crime, changes the definition or penalty of, or eliminates, a crime or infraction.

SCHOOL ACCESS TO JUVENILE RECORD ACT

Section 1: Title

Section 2: This section states that the purpose of the bill is to provide written notice to the principal and "teachers directly responsible over" a minor who is convicted of a crime "involving serious bodily injury or narcotics." "Serious bodily injury" is not defined here or elsewhere in the proposed law. The provisions also would cover all narcotics infractions, including possession. This provision seems to equate "notice" with crime prevention and protection of students and teachers, in the absence of offering more substantive solutions, and at the risk of jeopardizing confidentiality.

Section 3: This section provides that juvenile court records may be inspected by court officials, the minor and family involved, the attorneys involved and "such other persons as may be designated" in response to a petition filed with the court.

The principle of confidentiality of juvenile records could be severely compromised by implementation of this provision. There are no guidelines as to who might have access to the records and no limit on the time during which access may be offered. Records could be made available, for example, to a potential employer 30 years after the court proceedings.

Section 4: Juvenile courts would be given authority to notify a public school student's district superintendent or the principal of a private school student within 48 hours of the filing of a petition "alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance." The statute does not provide authority—let alone mandate—that the same school officials be notified of the disposition of the case.

Section 5: This section requires that when a juvenile is found to have "committed either a crime of violence which resulted in serious bodily injury or any sexual assault," the notice of the finding be submitted within 48 hours to the school district or principal of the private school attended by the child. Further, it requires that the information "be expeditiously transmitted to each teacher or administrator with direct supervisorial or disciplinary responsibility over the minor."

Like Section 3, this section could puncture the principle of confidentiality of juvenile court records—with no impact on school

crime—because of the practical difficulty of maintaining confidentiality when, for example, seven or eight teachers and administrators in a given school might receive the written notices, is self-evident.

Section 6: This section would appropriate funds to pay for the costs of implementing these provisions.

ACCESS TO SCHOOL PREMISES ACT

Section 1: Title

Section 2: Purpose of the act is to require non-students and non-employees to register "their presence at a school" and provides a penalty for those who do not comply. In fact it mandates controls where they are not necessary, and obstructs local programs that encourage parents to come to school freely.

Section 3: This section states that the bill applies only to the premises of public schools. "Outsider" is defined as a student currently suspended from the school and all other persons except students, officers or employees of the school. Definitions of other terms are also specified.

Section 4: This section requires an "outsider"—including a parent—visiting during school hours to register at the principal's office. It authorizes the principal or a designee to refuse admission or to revoke permission previously conferred upon an outsider if he or she "has no lawful business on the school grounds" or if his or her "presence would interfere with" or "disrupt" conduct of normal school functions.

Section 5: An outsider who fails or refuses to leave school grounds promptly after being asked would be subject to imprisonment of up to 6 months, a fine of up to \$500, or both.

Section 6: This section states that no funds will be appropriated for this act because costs will be incurred only if it creates a new crime, changes the definition of, or eliminates a crime or infraction.

SCHOOL CRIME REPORT ACT

Section 1: Title

Section 2: Purpose is defined as requiring state departments of education and "justice" to work together to develop a "standard school crime reporting form" and to require school districts to report school-related crime each quarter to the county superintendent of schools. Private schools would not be required to report.

It is unclear what problem this massive reporting mechanism is designed to address.

Section 3: A deadline is established for developing the crime reporting form. The section specifies that the form must include certain information regarding two types of crimes—crimes against persons and crimes against property.

In the case of crimes against persons, reports would have to include age and sex of the offender; whether the offender is a student or has been a student at the school where the crime occurred or at another school; and whether he or she was under school suspension or expulsion at the time of the crime. These data would not have to be reported for crimes against property.

Section 4: School districts are required to report school-related crime each quarter to the county superintendent. The superintendent is required to compile the information and submit it within 30 days to the department of education, which is required to make the information—including costs of the crimes—available to school districts and the public. Neither this section nor any other in the bill requires confidentiality of the criminal records to be compiled.

Legislators must consider whether this bureaucratic tangle is the most meaningful way to address the problem of school crime.

Section 5: This section would appropriate funds to pay for making the crime reports.

SCHOOL DISCIPLINE POLICY ACT

Section 1: Title

Section 2: This states that the purposes of the act are to require the state department of education to develop guidelines for school district discipline policies; to require each district to develop a policy; and to give the state department of education authority to monitor the policies.

Section 3: The state department of education is required—with the involvement of parents, students, teachers and administrators—to develop guidelines for school district student discipline policies:

(A) This section requires that parents, students and local school district personnel, including teachers, be involved in developing the policies;

(B) This section presents a minimum list of the types of offenses to be addressed by the code. Sub-sections specify these as threatened or actual assault or abuse of school personnel; weapons-related offenses; drug- and alcoholic beverage-related offenses; and property offenses.

The section further requires the code contain:

- maximum and minimum penalties for these and other offenses;
- procedures clarifying which offenses should be handled within the school and which by the police; and
- procedures for notifying students and parents that the code is in effect.

Although the provisions it contains do not constitute "due process" (which requires more specific notifications, a hearing and other protections), this section says that "due process procedures must not impede a school administrator's or teacher's ability to enforce rules."

ALEC specifies that suspension or expulsion from school be among the prescribed penalties. It fails to acknowledge that the 1975 *Goss v. Lopez* U.S. Supreme Court decision established due process requirements for students who are to be suspended for ten days or less. These include notice, a hearing and, if the student denies the charge, "an explanation of evidence the authorities have and an opportunity to present his side of the story."

Especially in light of studies documenting that children of racial minorities are suspended or expelled much more frequently than white children, students facing a longer suspension (which would be a greater disruption of their right to an education) should be accorded additional protections.

Neither this section nor any other in the bill requires that the rules be specific. Juvenile justice experts point out that it is not unusual for such cases to include rules such as "students must obey orders," which are extremely difficult to interpret or enforce and unfair to students and teachers alike.

Sections (C) and (D) call for "advising" parents and students of the school's code, defining infractions and how they may be punished. They also require a procedure for "written notification" and "documentation of the receipt" of the code by parents and students.

Like other sections of the bill, these give lip service to notification and involvement of students and parents but offer no guarantees of meaningful involvement of either group in fashioning the code.

Section 4: Each school district is required to develop its discipline policies and file them with the state department of education by a date certain. Amendments or revisions to the code must be adopted in the same manner as the original procedures and must be consistent with state guidelines. School districts that don't

file their code by the deadline would "have all state aid funds withheld" until they file.

This section would place a major burden of both paperwork and substantive judgment on the state department of education. The implication of requiring school districts to meet state guidelines is that someone will review each code and advise districts if they are not in compliance.

In 1984-85 there were nearly 16,000 school districts in the U.S. The state of Hawaii has only one school district and Nevada, next in line, has 17. But it is not uncommon for a state to have several hundred districts. New Jersey has 616; Minnesota, 453; Montana, 551. Is the state role prescribed here either the most effective or appropriate one?

Finally, the provision that would cut off state aid to a school is inappropriate to the "crime" of delaying submission of the district's proposed discipline code. It is more likely to victimize school children than to punish the tardy administrators.

The concept of guidelines for school districts and local school discipline codes is a useful one and in force in many states. A wide variety of organizations from teacher unions to ALEC support the idea. But drafting problems in this legislation sharply limit its effectiveness as a model.

CHAPTER FIVE: STATES' ROLE IN EDUCATION

PRIVATE SCHOOL ACT

The preface to the proposed "Private School Act" contends that our public educational system consists of "government temples of learning" through which a cabal of "state officials and educators" perpetrate the ideology of "advocates of a communal society."

It further alleges that local educators, parents and students have minimal input into the system and that the only way aggrieved groups can get redress is to remove their children from the system and teach them at home or augment and encourage the development of private schools.

The political tone and overwhelming breadth of these generalizations are patently ridiculous. ALEC ignores the provision for private schools in our educational system and paints "public" schools as synonymous with socialist schools. It ignores a national heritage which goes back to the first days of our republic to support public education and permit alternative schools.

In fact, private schools exist in every state, and in the majority of states their authority comes from a statute very similar to the "Private School Act" proposed by ALEC. Furthermore, recent results of polls conducted over several years suggest that Americans want both a strong public school system and an opportunity for educational diversity.

Some parents have found this diversity in private schools, both church- and nonchurch-related. Others have found it in "alternative" public schools. There is little, if any, evidence to suggest that many Americans, as ALEC would have us believe, desire the "total alteration" of the system.

The National Center for Educational Statistics (NCES) reports that private school enrollment has increased in recent years. Growth in this sector went from 10.5 percent of all students in 1970 to 12.6

percent in 1985, beyond what NCES had projected for 1990 enrollment (11.6 percent).

With the general enrollment increase has come a shift away from Catholic schools—where enrollment has decreased by more than 2 million students since 1965—and an increase in enrollment in all other categories of religiously affiliated schools. Within this group, enrollment in "other church-related" private schools (primarily those sponsored by Christian Fundamentalist groups) increased the most, more than doubling from some 280,000 students in 1978-79 to more than 580,000 in 1980-81.

Enrollment in nonchurch-related private schools underwent a comparable leap (from 341,000 to 747,000), from 1965 to 1979, and increased about 45,000 students in the next two years.

However, the growth in "alternative" public schools in the same period suggests that opting out of the public system is not the only answer for parents who feel their children require a special learning environment. This phenomenon is described in *The Current Status of Schools of Choice in Public Secondary Education*, by Mary Anne Raywid of Hofstra University's Project on Alternatives in Education.

And despite the growth in the private school sector, the 1985 "Gallup Poll of the Public's Attitudes Toward the Public Schools" shows that both the general public and parents whose children attend public schools rate the schools more highly now than they have over the last five years. (The poll also shows that both a majority of the general public and a majority of public school parents believe that the growth in private and church-related schools is a "good thing.")

It is widely recognized that despite general public support for our education system, changes must be made. One critically needed change is providing parents and teachers the opportunity to have more say in educational decision-making. Parents and other citizens on all points of the political spectrum, as well as ALEC, have expressed this concern.

However, the bill proposed here does nothing to enhance the role of either parents or teachers.

Other legislation proposed by ALEC would mandate public schools to work with parents to set up local boards. But the word "parent" doesn't even appear in the "Private School Act."

Neither would this bill do anything to help "local educators" or private school teachers become more involved. Nor would it protect their interests.

The main difference between the ALEC proposal and most existing state laws authorizing private education is that the ALEC bill explicitly allows a school to include or exclude from its curriculum "any concept, practice or topic" based on whether or not it is "consistent with its [the school's] religious doctrines or other beliefs or religious convictions."

This kind of censorship flies in the face of one of the most fundamental principles of American education: that schools should offer "opportunity for students to experience the diversity of backgrounds and viewpoints that contribute to the democratic process," as Stanford School of Education researcher Henry Levin put it in a recent interview.

What is missing in the "Private School Act"—but implicit and explicit elsewhere in the ALEC education agenda—is the attempt to provide public taxpayer subsidies to private schools (beyond the sharing of certain resources required under existing law) through vouchers or tax credits, while allowing those institutions to evade basic requirements for equal educational opportunity, educational accountability and fiscal accountability.

In two 1985 decisions the Supreme Court ruled on the circumstances in which public funds and resources may be used for private school students. In *Grand Rapids v. Ball*, the Court held unconstitutional two programs in which public school teachers provided instruction to parochial school students, mostly in classrooms located in and leased from sectarian schools. Justice Brennan wrote that there was "substantial risk" that such programs would be used for religious educational purposes.

In the second decision, *Aguilar v. Felton*, the Court held that sending public school teachers, funded through a federal program, to teach and provide other services in sectarian schools resulted in "the excessive entanglements of church and state."

At the time of this writing, debate over the implementation of these two decisions continues. But one thing is clear: the Court has raised a flag which should be a warning to legislators that a number of provisions of this proposed "Private School Act" as well as others in ALEC's agenda may be unconstitutional.

Section by Section

Section 1: Title

Section 2: "Private schools" is defined to include any non-public school, including those which are religiously affiliated, "that receives and instructs children of compulsory school age." It raises the question of whether a school is considered "private" if it receives public funds.

Section 3: Students attending the schools described above shall be deemed to meet the requirements of compulsory attendance.

Section 4: In order to meet compulsory attendance requirements, private schools must:

- maintain school attendance and immunization records;
- operate on a "regular schedule" at least nine months per year;
- be housed in a building that meets local health and safety requirements; and
- provide an organized course of study in science, reading, language arts, mathematics and history. It authorizes such schools to determine curriculum content based on their "religious doctrines or other beliefs or convictions." These attendance and curriculum standards are not necessarily comparable to public school standards.

Section 5: Private schools are required to administer a standardized test to all students in grades one, two, three, six and nine at least once a year. Areas covered by the test must include English grammar, reading, spelling and mathematics. Schools must maintain records of their students' scores and make them available "for annual inspection by a duly authorized representative" of the state.

This section does not guarantee parents access to the test results of their children; or parents of prospective students access to information about scores of the children in the school. Because these schools are likely to be exempt from accreditation, curriculum and teacher certification requirements, prospective parents should have access to a summary of test results to help them determine whether their child would receive an adequate education. Performance standards are really missing; testing itself is presented as performance.

Section 6: This section authorizes private schools to participate in any "state-operated or state-sponsored program which would otherwise be available to such school."

The intent here is unclear. Why is it necessary to authorize access to programs "which would otherwise be available"? If the intent is to expand access of private school students to include all state educational programs, guidelines set down by the Supreme Court in the 1985 decisions and earlier ones must be applied.

Section 7: Children attending private schools are guaranteed access to public school resources including school buildings, personnel, classes and extracurricular activities "subject only to the same rules applicable to students otherwise in full attendance."

This provision is identical to Section 4 of ALEC's proposed "Home Education Act." The same comments apply.

The concept of maintaining a relationship between the public schools and families whose children are in private institutions has value. However, the constitutionality of this provision is at best problematical. No definition of any of the operative terms is given, and no limitation is placed on access. Is a child attending private school entitled to demand "resources" such as pencils or laboratory equipment? How is a decision to be made about the time and degree of access to school classes or staff? What are the rights of full-time public school students?

Public school resources should be made available legally to private school students only on a basis that does not disturb the regular educational process or operations of the public school.

Section 8: "Religious schools complying with the requirements of this act (but apparently not other private schools) shall not be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization."

The section effectively exempts religious schools, their students and personnel from state civil rights laws, fair employment and personnel practices, teacher accreditation, and curriculum standards. "Religious school" is not defined.

Section 9: To be included in bills in states with minimum competency requirements for students, this section requires schools to test eleventh graders in verbal and quantitative skills.

The test and a minimum competency level to be attained for graduation may, however, both be set by the principal and therefore will undoubtedly differ from those in effect statewide for public school students. Records of the testing must be maintained to be inspected annually by a representative of the state.

As in Section 5, there is no assurance that parents of prospective students in these schools would have access to a statistical summary of those test results—or to any other information—so that they can judge whether these schools, which are exempt from accreditation and curriculum requirements, are in fact providing an adequate education.

CITIZENSHIP EDUCATION RESOLUTION

Although the term is never mentioned by ALEC in this section, the spirit of the federal Hatch amendments lurks in this proposal to create a state legislative commission on "moral education."

The second Hatch amendment, offered by Sen. Orrin Hatch of Utah, was enacted in 1984 as an amendment to PL 98-377, the Education for Economic Security Act, prohibits use of funds under the federal magnet school program for "any course of instruction the substance of which is secular humanism."

The first Hatch amendment, enacted in 1978 as the Protection of Pupil Rights Amendment under regulations promulgated by the Department of Education in 1984, requires that:

- federal funds recipients provide parents or guardians with all instructional materials used in connection with any research or experimental program involving their children; and
- schools and contractors obtain written parent consent prior to a student's participation in any federally funded psychological or psychiatric testing or treatment, if the primary purpose is to reveal any of seven listed categories of "personal" information.

The Department of Education regulations go far beyond the law and appear to be in direct violation of the legislation which established the Department of Education and prohibited the federal government from controlling local curriculum.

These seemingly innocuous provisions have created what many parents, educators and organizations—including those representing teachers, school boards and school administrators—have described as a "chilling" effect on classroom teaching because of the extremely broad and problematical interpretations given to them in federal guidelines. An arm of the federal government is set up to monitor compliance.

When the department issued guidelines for implementation of the first Hatch amendment six years after its enactment, it created what People for the American Way has called "a powerful tool for intimidation," setting off a campaign by religious and extremist groups trying to prohibit not only testing, but also classroom discussion or use of instructional materials on a wide range of issues including nuclear war, sex education, yoga, suicide, death and "globalism."

The second Hatch amendment, which bars the use of magnet school funds for the teaching of "secular humanism," is a legal morass. No guidelines or definitions have surfaced and local school districts are left to decide what is "secular humanism."

Legislators must be alert to the movement to enact "baby Hatch amendments" on the state level, for the proliferation of such restrictions on free inquiry and discussion in our schools constitutes a breach of academic freedom and civil liberties.

To date the movement to "enforce" the Hatch amendments has shown all the signs of an attempt to establish a monolithic discipline of "moral education" in our schools and to close the door even to discussion of subjects and values not advocated by its supporters.

Procedures already exist for public and community input into school curriculum and selection of instructional materials.

"One of the objectives of universal free public education is to develop in children the intellectual capacities required for the effective exercise of the rights and duties of citizenship. . . Instructional materials, including. . . texts, books, films, magazines and newspapers, should make available to students. . . a wide range of ideas, and diversity of political viewpoints. Such diversity is required by the constitutional guarantee of free speech, free press and equal protection," states the American Civil Liberties Union's policy on academic freedom.

Section by Section

The resolution consists of several "whereas" clauses stating that our educational system is a void of values and moral education and that "responsibility for formulating a broad program of values education surely rests on the popularly elected State Legislature as well as educators." These clauses are followed by a series of "resolved" clauses creating the commission and describing its task.

The proposed resolution would authorize the governor to appoint and fund a 20-member commission, "for the purpose of identifying and assessing ongoing programs in moral and values education" in the schools and "to make recommendations toward the implementation of Moral Education into the curriculum."

It suggests that the commission should "be balanced between the State and local level, and comprised of representatives from the private and public sector."

The resolution proposes that the "values" program developed not be taught in a special class but included in various courses such as social studies or American history.

It states that "moral relativism is in large part responsible for the moral chaos in schools and in society at large"; and that the curriculum should not include "situation ethics," "values clarification" or "morally relativistic philosophies." These code words are not defined.

GUIDELINES FOR SCHOOL FINANCE

1. Deconsolidation

ALEC's discussion of "deconsolidation" equates the concept with "decentralization" and "community control," but they are not the same. Consolidation has occurred over the decades because of the inability of small, especially rural, school districts to provide adequate educational services to all children and from a body of educational research on effective and efficient schooling. Simply increasing the number of districts again offers no guarantee that services will improve or that the community will have more control over them. No research or data are provided to prove this assertion.

These goals of school improvement and a more meaningful community role are extremely complicated and difficult to achieve. A neat clever approach in and of itself will not be adequate for the job. Although deconsolidation certainly may be desirable in particular geographic areas, what is needed is a thoughtfully honed approach which takes into account the history and needs of each community.

2. Reducing the Number of School Administrators

Streamlining any unnecessary bureaucracy is a goal which all can endorse.

How that is done and what priorities guide the decisions are critical questions to be addressed.

ALEC's hypothetical and vague proposal is particularly unhelpful in light of the increased administrative responsibilities that would be generated if some of ALEC's proposed bills—e.g., converting to an education voucher system and replacing teacher certification with decisions by administrators—were enacted.

3. School-Based Management

A number of experiments suggest that "school-based management" may be a beneficial way to bring the schools closer to parents and to the community in general.

In 1985, the National Committee for Citizens in Education in Columbia, MD, published a book, *One School at a Time*, and discusses the issues involved and offers the experience of various communities as a guideline to successful efforts.

4-7. Performance-Based Funding, Adopt-A-School Program, School Volunteer Program, Privately Endowed Public Schools/Education Foundations.

This grab bag contains ideas that could be helpful in revitalizing the schools and providing new opportunities for students.

The thread which runs through all of the specific suggestions is that the private sector could and should participate more—whether through funding or providing other resources or personnel—in the educational system.

Such proposals should be considered and debated on their individual merits. In considering these programs, legislators and the community at large should bear in mind the following guidelines:

- The primary purpose should be to increase access of school-aged children to free, quality education. Adoption or definition of such a program should not be driven by motives of profit-making or tax avoidance on the part of corporations or for arbitrary reduction in the force of qualified teachers by the school district.
 - Any privately supported effort in the schools must comply with civil rights laws, health and safety codes and other regulations governing the operation of the schools as a work place.
 - Such joint efforts should be given a specific duration period. The goals of the project and standards by which progress will be measured should be publicly stated and agreed upon before the project starts. If the goals are not achieved, the project should be discontinued or revised at the agreed-upon time.
 - And, as Sheila Harty suggested in her 1979 book *Hucksters in the Classroom*, written for the Center for Study of Responsive Law, "equal-time strategies" should be applied to discussion of opposing points of view in the classroom. Critical discussion led by an informed teacher is crucial to overcome advantages likely to be enjoyed by better-endowed points of view.
8. A Smorgasbord of Cost-Cutting Ideas

Comments regarding item 2 of this section, ALEC's proposed reduction of the number of school administrators; and items 4-7, dealing with the role of the private sector in public education, also apply here.

APPENDIX A: ADDITIONAL RESOURCES

AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

One Dupont Circle, N.W., Washington, D.C. 20036

Phone: (202) 293-2450

This organization represents teacher education institutions. Information available on teacher education, certification and accreditation. Bimonthly magazine and publications brochure.

AMERICAN CIVIL LIBERTIES UNION

132 W. 43rd St., New York, NY 10036

Phone: (212) 944-9800

State affiliates of the ACLU have policies on and become involved in academic freedom issues including student and teacher rights, school discipline, as well as home and private education. Contact the affiliate in your state for information. New York office will help you locate affiliate if necessary.

CENTER FOR LAW AND EDUCATION

Larsen Hall, 14 Appian Way, Cambridge, MA 02138

Phone: (617) 495-4666

The center provides support services on education issues to advocates working on behalf of low-income students and parents. Information available on competency testing, discipline issues (including a model discipline code), parent and community involvement. Newsletter, law bulletin and updates on federal issues.

CHILDREN'S DEFENSE FUND

122 C St. N.W., Washington, D.C. 20009

Phone: (800) 424-9602

Private, non-profit child advocacy organization which monitors and tries to have an impact on education policy on the national and state levels. The Education Division has information on parent involvement, tax credits and vouchers, discipline, school finance and administration, and state education reform. Publications list and monthly newsletter.

COUNCIL FOR AMERICAN PRIVATE EDUCATION

Room 1011, 1625 I St. N.W., Washington, D.C. 20006

Phone (202) 659-0016

Coalition of 15 national organizations representing private elementary and secondary schools which serve approximately 75 percent of private school students in the U.S. Information available on home education, tax credits and vouchers, teacher pay and certification, private schools, "moral" education, school finance and state reforms. Newsletter and booklet about the organization also available.

EDUCATION COMMISSION OF THE STATES

Suite 300, 1860 Lincoln St., Denver, CO 80295

Phone: (303) 839-3692

Non-profit nationwide compact formed to assist state policy-makers to improve quality of education. Conducts policy research and analysis on topics including home and private education, parent participation, financing mechanisms including vouchers and tax credits, school discipline and teacher pay and certification. In a number of areas, can provide reports summarizing laws in every state. Extensive publications list.

HOLT ASSOCIATES/GROWING WITHOUT SCHOOLING

729 Boylston St., Boston, MA 02116

Phone: (617) 437-1550

Clearinghouse for information on the home schooling movement. Publish monthly magazine, information on how to teach children at home, legal advice, etc.

INTERCHANGE

1201 Sixteenth St., N.W., Washington, D.C. 20036

Phone: (202) 822-7860

NATIONAL CATHOLIC EDUCATIONAL ASSOCIATION
Suite 100, 1077 30th St., N.W., Washington, D.C. 20007
Phone: (202) 293-5954

Voluntary organization for educators in Catholic education. Information available on parent involvement, tax credits and vouchers, teacher certification, school discipline and crime, private schools, "moral education," school finance, state education reform. Quarterly journal, newsletters, religious education materials.

NATIONAL CENTER FOR THE STUDY OF CORPORAL PUNISHMENT AND ALTERNATIVES IN THE SCHOOLS
253 Ritter, Temple University, Philadelphia, PA 19122
Phone: (215) 787-6028

Research center on school discipline. Newsletter, publications list.

NATIONAL COALITION FOR PUBLIC EDUCATION
1201 Sixteenth St. N.W., Washington, D.C. 20036
Phone: (202) 822-7878

Coalition of 68 national education, civil rights, religious and civic organizations opposed to tuition tax credits. Brochures and fact sheets.

NATIONAL COMMITTEE FOR CITIZENS IN EDUCATION
Suite 410, Wilde Lake Village Green, Columbia, MD 21044
Phone: (301) 596-5300

A private, non-profit organization whose goal is to stimulate citizen involvement in the public schools, NCCE can provide information on home schooling, parent involvement, tax credits and vouchers, discipline issues, and state education reforms. Newsletter, publications catalogue and special handbooks and reports.

NATIONAL CONFERENCE OF STATE LEGISLATORS
1125 Seventeenth St. N.W., Suite 1500, Denver, CO 80202
Phone: (303) 292-6600

General information on state education policies.

NATIONAL EDUCATION ASSOCIATION
1201 Sixteenth St. N.W., Washington, D.C. 20036
Phone: (202) 833-4000

The nation's largest teacher organization can provide information on most of the issues in the ALEC agenda. Consult affiliate organization in your state for specific information.

NATIONAL GOVERNORS' ASSOCIATION

Suite 250, 444 North Capitol St. N.W., Washington, D.C. 20001

Phone: (202) 624-5300

The national arm of the governors. Education is NGA's top priority for 1985-86. Information on school reform, what works, "choice" issues including tax credits and vouchers, etc., will be collected through hearings process and will form basis of recommendations to governors at August, 1986 meeting.

NATIONAL PARENT-TEACHER ASSOCIATION

Suite 621, 1201 Sixteenth St. N.W., Washington, D.C. 20036

Phone: (202) 822-7878

The national office of the PTA s can provide information on parent involvement, tax credits and vouchers, and issues related to juvenile justice. Legislative newsletter and publications list.

NATIONAL SCHOOL BOARDS ASSOCIATION

1680 Duke St., Alexandria, VA 22314

Phone: (202) 838-6722

This federation of 52 state school board associations can provide information on parent involvement, merit pay, school crime and discipline, "moral education," and state education reforms. Newsletters and publications list also available.

NATIONAL SCHOOL SAFETY CENTER

7311 Greenhaven Drive, Sacramento, CA 95831

Phone: (916) 427-4600

A national clearinghouse on school safety issues supported by federal funds and Pepperdine University. Information on school crime and discipline issues, including three-times yearly news journal.

PEOPLE FOR THE AMERICAN WAY

Suite 601, 1424 Sixteenth St. N.W., Washington, D.C. 20036

Phone: (202) 462-4777

Nonprofit, non-partisan citizens organization whose 200,000 members work to "promote and protect constitutional freedoms, particularly those guaranteed under the First Amendment." Information available on home education, tax credits and vouchers, private schools, state education reform, and curriculum and censorship issues. Publications list.

**STANFORD UNIVERSITY INSTITUTE FOR RESEARCH ON
EDUCATION FINANCE AND GOVERNANCE**

CERAS 204, Stanford University, Stanford, CA 94305

Phone: (415) 497-0840

Federally funded research and development center which conducts policy studies and analysis on school finance, governance and related issues. Information available on parent involvement, tax credits and vouchers, teacher certification and merit pay, private schools, state education reform.

APPENDIX B: OTHER NEW RIGHT EDUCATION-ORIENTED ORGANIZATIONS

AMERICAN COALITION FOR TRADITIONAL VALUES

122 C St., NW

Washington, D.C. 20001

President: Rev. Timothy LeHaye

ACTV (pronounced "active") is a coalition of leaders who aggressively campaign for a public policy that reflects "traditional, Christian values." Originally an organization of fundamentalist ministers, ACTV has moved to Washington, D.C., from San Diego and is expanding to "bring together high level public school administrators (who are as opposed to secular humanism as much as we are), with other leaders to . . . see what can be done to turn public education back to traditional values and the basics." ACTV has been praised by President Reagan and endorsed by Rev. Jerry Falwell.

Rev. LeHaye, the husband of Beverly LeHaye of Concerned Women for America, is also president of Christian Heritage College in San Diego and a member of the board of the Moral Majority. His "battle" books—among them *Battle for the Public Schools*—sounded the battle cry against "secular humanism." ACTV is closely connected with Paul Weyrich's Free Congress Foundation.

AMERICAN EDUCATION COALITION

721 Second Street, NE

Washington, D.C. 20003

Director: Marcella Donovan

This subsidiary of Paul Weyrich's Free Congress Foundation was founded in early 1983 with the cooperation of such New Right's standard bearers as ALEC, Save Our Schools, the National

Christian Action Coalition, and the National Pro-Family Coalition. AEC shares its founders' beliefs in parental rights in determining educational curricula, methods, and materials, in classroom discipline, tax credits, and tuition vouchers. Its contribution to parent-centered schooling is a series of action kits for parents, including "How to Get Elected to the School Board," "How to be an Effective Grassroots Lobbyist," and "How to Evaluate Your Child's Sex Education Program." A kit on passing ALEC's model education bills is forthcoming.

COMMITTEE FOR POSITIVE EDUCATION

5437 Cory-Hunt Rd., NW

Bristolville, OH 44402

Contact: Mary Tesner

In CPE's definition, "positive" is synonymous with "traditional." Its goal is to promote the "basic skills that develop the intellect, instill our heritage, and promote the virtues of achievement, competition, and individualism."

CPE educates and alerts parents to their rights to determine what their children are taught, including reviewing curricula and texts. Members are encouraged to become actively involved with their school boards, legislatures, and Congress. The newsletter is monthly.

CONCERNED EDUCATORS AGAINST FORCED UNIONISM

8001 Braddock Road, Suite 500

Springfield, VA 22160

Director: Susan Staub

The educational division of the National Right to Work Committee, CEAUFU was formed in 1975 to oppose agency shops—schools that require fees from every teacher. Claiming 35,000 "educational professionals" as members, CEAUFU has as many as eight staff and chapters in dozens of states. Its fights in legislatures and the courts are often joined by state affiliates of the National Association of Professional Educators, a federation of anti-union teachers.

CEAFU reviews all high school history and social study textbooks for their treatment of right-to-work issues and files complaints against those it finds objectionable with state departments of education. It produces films, filmstrips, and booklets to bring its position on right-to-work into classrooms. RECAPS is its quarterly newsletter.

CONCERNED WOMEN FOR AMERICA

122 C ST., NW

Washington, D.C. 20001

Director: Beverly LeHaye

Beverly LeHaye directs a nationwide kitchen-table lobby. Her 600,000 members are organized in "prayer groups" of 50 ready to respond to their leaders' summons on any issue that goes against "traditional American values." They can bury a government agency under a deluge of letters, telegrams, and telephone calls.

In education, CWA puts its considerable resources to work for the principles of the New Right—Biblical fundamentalism. CWA is implacably opposed to "secular humanism." That phenomenon, according to Rev. Timothy LeHaye, Beverly LeHaye's husband and president of the American Coalition for Traditional Values, is the source of the decline in educational achievement and of a variety of other social ills.

CWA's legal defense fund takes the battle over education to the courts. Cases to be supported are selected by members in direct mail balloting. General counsel is Michael Farris, former head of the Washington state Moral Majority.

EAGLE FORUM

P.O. Box 618

Alton, Illinois 62002

President: Phyllis Schlafly

When Illinois attorney Phyllis Schlafly turned her attention to education after the defeat of the Equal Rights Amendment, her first tactic was defensive. She organized Stop Textbook Censorship committees throughout the country to encourage citizen activism against the influence of "ERA/NOW types" who, she claims, are "conducting a gestapo-like censorship of textbooks to purge them of words, pictures and concepts which encourage the traditional family, motherhood and ladylike behavior."

Schlafly is now promoting an education agenda based on parental rights, which she calls "the hottest issue in education today." The results of her work have been felt in school districts across the country. Schlafly recently sent a quarter of a million parents a sample letter which they can use to warn school districts against "manipulating" their children's "values and moral standards." According to Schlafly, the Hatch amendment, requiring schools to obtain parents' permission before giving their children psychological tests, opened all curricula, lessons, and teaching materials to parental scrutiny. Schools that refused, the letter explained, could lose federal funds. Despite Sen. Orrin Hatch's

explanations that his amendment should not be stretched so elastically, letters forbidding a list of 20 subject areas, including death and critical thinking, continue to be received by school boards and teachers.

EDUCATIONAL RESEARCH ANALYSTS

P.O. Box 7518

Longview, TX 75607

President: Mel Gabler

Since 1961, Texas activists Mel and Norma Gabler have analyzed textbooks for teachings that clash with their understanding of patriotism and religion. The pair has parlayed their outrage into an effective censorship lobby with a national audience. Their semiannual newsletter reviews texts, citing offenders in line and verse. Additionally, the Gablers provide speakers on "textbooks and their influence upon our nation," and maintain a 7,000-volume textbook review library. The Gablers have been chosen by the Rev. Jerry Falwell as education advisors to the Moral Majority, according to a recent ERA mailing.

EDUCATIONAL VOUCHER INSTITUTE

24650 Crestview Court

Farmington, CA 48024

Contact: William Coates

Founded in 1980, the 10,000 member organization of "parents and taxpayers" is a clearinghouse for information on educational vouchers and tax credits. Its goal is for tax funds now spent on education to be distributed among parents as vouchers to be spent at the schools of their choice. EVI sponsors and publishes research in catalogs, a bimonthly newsletter, and an irregular magazine, *Inform*.

FAMILY CENTERED LEARNING ALTERNATIVES

26611 State Route 530, NE

Arlington, WA 98223

Director: Debra C. Stewart

Founded in 1981, FCLA encourages its 5,000 subscribers to support parents' right to choose the "education environment" right for their children and to promote the legalization of home-schooling throughout the nation. The organization sponsors "family-centered learning centers" through which certified teachers cooperate with parents to bypass state laws prohibiting home teaching. FCLA was formerly the Stillaquamish Learning Exchange.

HERITAGE EDUCATION AND RESEARCH ORGANIZATION

P.O. Box 202

Jarrettsville, MD 21084

Director: Penny Bowen

HERO says its goal is to preserve America's national freedoms and identity by teaching patriotism, religion, and the U.S. Constitution. This, they believe, can best be done by strong families unified by parental authority and home schooling.

HERO keeps its parent-members informed of legislation affecting school policy and teaching materials. It also represents parents before their school boards. Other activities include seminars and training, a speakers bureau, bimonthly newsletter, and an Un-Sung HERO award.

THE HERITAGE FOUNDATION

214 Massachusetts Ave., NE

Washington, D.C. 20002

President: Edwin Fuelner, Jr.

Educational Consultant: Eileen Gardner

The Heritage Foundation, founded by Edwin Fuelner and Paul Weyrich in 1973, has become the conduit through which the New Right funnels people and ideas into the Reagan administration. "Historians who seek the real meaning of events in the latter part of the 20th century must look back on gatherings such as this," President Ronald Reagan said at the foundation's tenth anniversary banquet. Influence at middle levels of government may well be the foundation's enduring heritage.

Mandate for Leadership, 1980, and *Mandate II, 1984*, consolidated neoconservative thought and are credited with giving direction to President Reagan's administrations. Heritage advice has been continuing as well. In 1983, for example, the foundation recommended how to make \$111 billion in deficit cuts.

Education consultant Eileen Gardner describes choice as the education issue of the day. Vouchering, at the leading edge of the choice movement, stands a chance for its first large-scale Americans test in the Chapter I programs designed for educationally deprived children. Department of Education funds will also be used to study the larger issue. "We are on the way to opening education to the free-market system," she says. The Heritage Foundation is taking its usual role of gathering and analyzing data and writing in support of "opening up the present monopoly."

The foundations building, on the Senate side of Capitol Hill, houses the New Right's who's who of organizations.

LEARN, INC.

655 15th St., NW

Washington, D.C. 20005

Director: Lawrence Uzzell

Learn, Inc. is the "education foundation" of Lawrence Uzzell, conservative theorist and frequent member of the Reagan team. It promises "to help parents, educators and other concerned citizens to reverse the decline of American education." Among its board members are Connaught Marshner, editor of Family Protection Report (one of the many arms of Paul Weyrich's Free Congress Foundation) and Onalee McGraw, former education consultant to the Heritage Foundation.

Learn advocates tuition tax credits and vouchers as means of privatizing education. It would abolish the Department of Education, to which, ironically, Uzzell was a Reagan appointee, hired to write position papers on tuition vouchers. Uzzell's stay was brief. He resigned over reaction to statements that every federal program for elementary and secondary schools should be abolished.

MORAL MAJORITY

717 Second St., NE

Washington, D.C. 20002

President: Jerry Falwell

Education has long been a concern of the best-known organization of the fundamentalist New Right. Television's *Old Time Gospel Hour* and *Jerry Falwell Live* carry the crusade's values into hundreds of thousands of homes. Direct mail links three million of those Americans into a membership who receive Falwell's word as dogma and respond with contributions, votes and action.

"The liberals and humanists are slowly 'sneaking in' perverted and anti-moral sex education materials among public schools systems," Falwell writes. He warns parents "you and I are the ones who pay school taxes and hire educators to teach our children. It was Hitler that permitted educators rather than parents to control what went into their children's minds."

In addition to defending apartheid in South Africa, Rev. Falwell and the Moral Majority are now turning its considerable influence to prescribing the educational futures of the children of many of its members. Parents who choose to educate their children at home will soon be able to conform their teaching to the Rev. Falwell's standards by purchasing fully developed curricula from the entrepreneurial Majority.

NATIONAL COUNCIL FOR BETTER EDUCATION

717 Second St., NE
Washington, D.C. 20003
Director: Sally D. Reed

NCBE, housed with the Moral Majority, is the New Right's organized opposition to the National Education Association. It was established in 1983 by the National Conservative Political Action Committee (NCPAC) to alert "the public and the media to the harm the NEA is doing to American education."

In 1984, former NCBE national chair Samuel Blumenfeld condemned the NEA in his book *The Trojan Horse in American Education*. "The only escape from the humanistic worldview dominating American public education is private or home schools," he wrote. "If Christian education is to survive, we must create our own schools, teacher training institutions, professional organizations and journals, our radio and television, our own newspapers and magazines. . . . Public school reform is a hopeless cause."

NCBE's recent survey of teacher attitudes revealed that a substantial majority agree with current NEA positions.

PARENTS' RIGHTS, INC.

12571 Northwinds Dr.
St. Louis, MO 63146
Director: Mae Duggan

Founded in 1967, PR seeks an alternative to public education by securing recognition in legislatures and the courts of parents' rights to "direct and control" their children's education. The organization sponsors research and conferences, publishes a quarterly newsletter, and bestows awards.

PRO-FAMILY FORUM

P.O. Box 14701
Fort Worth, TX 76117
President: Lottie Beth Hobbs

Influencing state textbook adoptions and legislation affecting curricula has been the crusade led by Lottie Hobbs, who is also vice president of Eagle Forum. Campaigns have been waged in Alabama, Colorado, Florida, and Oklahoma. Publications include "Public Education: River of Pollution," "Is Humanism Molesting Your Child?" "Secular Humanism in the Schools," and "Evolution's Effect on the Home and Nation."

SAVE OUR SCHOOLS

1721 I St., NW

Washington, D.C. 20006

Director: Dan Alexander

SOS is a one-man organization which includes the Taxpayers Education Lobby. Dan Alexander, director and Mobile, AL attorney, keeps in touch with legislators in many states and with his 23,000 members by direct mailings. SOS believes quality education will result when parents and taxpayers have a national voice. The voices joined in SOS urge state legislation requiring competency tests. They speak for prayer in the schools and against forced busing and such education interest groups as the National Education Association. The "school-saving" organization would also abolish the Department of Education.

APPENDIX C: ALEC SUGGESTED LEGISLATION

Home Education Act

Section 1. (*Short title.*) This act may be cited as the Home Education Act.

Section 2. (*Exemption from compulsory attendance.*) Any child of compulsory school attendance age whose parents or persons acting as parents object to a regular school education on the basis of religion or other personal beliefs or convictions is exempt from the compulsory attendance requirements if the child is provided with a program of instruction in the home by his parents or persons acting as parents.

Section 3. (*Notification and registration.*) On or before September 15 of each year, the parents or persons acting as parents of the child shall:

(A) notify the board of education of the school district in which the child resides that the child is being provided with a program of instruction under authority of Section 2; and

(B) register the name, age, and home address of the child with the same board of education.

Section 4. (*Optional participation in classes and activities in public schools.*) No child exercising his rights under the provisions of this act shall be denied the use of public school buildings, facilities, and resources; access to public school personnel; or participation in public school classes and activities, including extracurricular activities; subject only to the same rules applicable to students otherwise in full attendance.

Section 5. (*Assessment of minimum competency.*) The administration of an examination for assessing the attainment of minimum competency objectives in the basic skills of reading and mathematics to a child designated in Section 2 shall be carried out by the board of education of the school district in which the child resides. The examination shall be conducted in the Spring of each year. The board of education of the school district where the child resides shall determine the grade level at which the child should be assessed and the time, place, and method for administration of the examination.

Section 6. (*Failure of compliance.*) Failure of compliance at any time with the provisions of this act shall result, after a written warning has been served on the child's parents or persons acting as parents by the board of education of the school district in which the child resides and a period of 30 days after receipt of service is allowed for compliance, in forfeiture of the exemption provided herein and thereupon the child shall become subject to the compulsory attendance requirements of this code.

Section 7. (*Severability clause.*)

Section 8. (*Repealer clause.*)

Section 9. (*Effective date.*)

Parent Education Participation Act

Section 1. (*Short title.*) This act may be cited as the Parent Education Participation Act.

Section 2. (*Purpose.*) Parents have the fundamental human rights to know, to understand, and to share in decisions that affect the education of their children enrolled in public schools of the state. This act is designed to protect those rights and establish regulations to preserve them.

Section 3. (*Definitions.*) As used in this act, the term:

(A) "Parent" means the legal guardian of a minor.

(B) "School" means any elementary or secondary public school of the state.

(C) "Student" means any person under the age of eighteen (18) years enrolled in the public schools of the state.

Section 4. (*Access to information about the principal and teachers.*) Distribution to parents of biographical sketches and data about the principal and teachers by the school in which their children are enrolled shall be an intentional and routine practice. Especially at the start of the school years and throughout, all parents shall be informed about:

(A) the professional background, affiliations and experience of the school staff;

(B) any special workshops the principal or teachers have recently attended or any rewards received for excellence in administrative work or teaching; and

(C) any changes which occur during the school year, especially staff changes which directly or indirectly affect the student.

Section 5. (*Access to information about the curriculum.*) At least two (2) weeks prior to each school semester, all parents shall be informed in writing by the school in which their children are enrolled about the following aspects of the curriculum:

(A) the content, textbooks and methods to be employed in the courses as well as the expected level of student performance;

(B) the graduation requirements and sequence in which courses are to be taken as well as explanations concerning course substitutes or electives;

(C) the bases or criteria for student evaluation in the courses as well as an evaluation of the student's progress in the sequence of courses required for graduation; and

(D) a sample of the report card with explanations concerning the evaluative criteria.

Section 6. (*Access to information about school policies.*) At the start of the school year and throughout, parents shall be informed by the school in which their children are enrolled about the official policies of that school and the school district regarding discipline, excused absences, how to arrange for a visit to the school, etc. School information manuals shall be sent directly to student's homes and avenues of communication shall be adopted by administrators at each school to inform parents and answer legitimate questions and concerns of parents as well as the public at large.

Section 7. (*Parental involvement in school administrative decisions.*) Parents shall be able to exert influence through the proper channels in regard to administrative policies developed by the school or school district in which the children are enrolled. Parents shall contribute to the shaping of administrative decisions involving:

(A) the evaluative criteria used for teachers and principals;

(B) the steps used in the reviewing and hiring processes of teachers and principals; and

(C) the due process by which parents and the public at large can issue recommendations or complaints to protest incompetent or unfit teachers and administrators without fear of reprimand.

Section 8. (*Parental involvement in school policies.*) Parents shall be able to exert influence through the proper channels in regard to school policies developed by the school or school district in which their children are enrolled. Parents shall contribute to the shaping of school policies concerning:

- (A) the content of curriculum;
- (B) the formation and implementation of discipline policies;
- (C) the construction of budgets; and
- (D) the determination of program priorities.

Section 9. (*Avenues of parental influence.*) Administrators in each school must create the appropriate channels to allow for parental influence regarding administrative and school policy decisions as described in Sections 7 and 8. School administrators shall create and seek recommendations and advice from parents using the following avenues of communication:

- (A) Parent Advisory Committees representative of the ethnic, religious and economic composition of the school community;
- (B) Parent Forums where school policies are discussed openly, calmly and rationally with school administrators and teachers;
- (C) written evaluative tools such as questionnaires and surveys to find the opinions of parents and the public at large; and
- (D) feedback systems by which parents and the public at large can be informed about the decisions ultimately made.

Section 10. (*Severability clause.*)

Section 11. (*Repealer clause.*)

Section 12. (*Effective date.*)

Education Tax Credit Act

Section 1. (*Short title.*) This act may be cited as the Education Tax Credit Act.

Section 2. (*Tax credits allowable for certain educational expenses.*)

(A) In addition to any other credits against the tax payable on net income which the law allows to an individual taxpayer, an individual taxpayer shall be entitled to the tax credit against the tax payable on net income provided for in this act. A taxpayer may claim the tax credit allowed by Section 2(B) for educational expenses described therein incurred after July 1, 1985, for any full-time student including, but not limited to, himself, his spouse, and each of his dependents. If such dependent or other person on whose behalf educational expenses are paid is a taxpayer, he may claim the tax credit for educational expenses allowed by this Section, and the parent or benefactor paying his educational expenses may claim the tax credit only if the dependent or other person does not claim the credit.

(B) Any taxpayer who qualifies under this act shall be entitled to a tax credit against the tax payable on his net income in an amount equal to the sum of the educational expenses described below, or five hundred dollars (\$500) for each person for whom the expenses were incurred, whichever of the sums is the lesser, on the following:

- (1) Tuition and all general fees paid to private and public elementary and secondary schools, vocational-technical schools, and proprietary schools, except that portion of tuition or general fees used for religious instruction;
- (2) Required books, except books for religious instruction;
- (3) Required school supplies, including by way of example, paper, pencils, pens, binders, laboratory supplies, and art supplies;
- (4) Required clothing, including by way of example, school uniforms, band uniforms, gym suits, and athletic uniforms;
- (5) Bus fees for transportation to and from school;
- (6) Athletic fees; and
- (7) School lunches, not to exceed one dollar (\$1.00) per school day.

(C) Any item enumerated in Section 2(B) shall not qualify as a basis for a tax credit if it qualifies and is claimed as a deduction on the taxpayer's state or federal income tax return or as a deduction or tax credit on the state or federal income tax return of the dependent or other person on whose behalf educational expenses are paid. Nor shall it qualify unless the taxpayer has and maintains in his possession for three (3) years following the filing of any return an actual receipt of the educational expenses incurred.

(D) The tax credit shall not exceed the total state income tax liability of the taxpayer.

(E) Schools receiving tuition or other monies for which tax credits are claimed, are deemed not subject to government regulations thereby.

Section 3. (*Severability clause.*)

Section 4. (*Repealer clause.*)

Section 5. (*Effective date.*)

Education Voucher Act

Section 1. (*Short title.*) This act may be cited as the Education Voucher Act.

Section 2. (*Purpose.*) In order to improve the quality of education and increase educational opportunity, this bill authorizes the creation of a statewide educational voucher system.

Section 3. (*Definitions.*) For the purpose of this act:

(A) "Educational voucher" is the instrument issued to parents or legal guardians that represents an amount of money as determined by the provisions of this act;

(B) "Educational voucher program" means a system whereby parents and legal guardians use education vouchers to pay only for educational services provided to students in kindergarten through grade twelve (12);

(C) "School" means any educational provider, public or private, which teaches any grade level(s) from kindergarten through grade twelve (12);

(D) "Parents" include natural parents, legal guardians, or any person having legal or effective custody over a student; and

(E) "Student" means any person enrolled in kindergarten through grade twelve who resides in the state.

Section 4. (*Establishment of voucher program.*) Implementation of the Education Voucher Program shall take no longer than three years, beginning on the effective date of this act. Full eligibility for vouchers of at least one-half of all students shall take place no later than the 1986-87 school year and of all students in the 1987-88 school year. Specific and realistic schedules for implementation shall be determined by the state department of education, local school districts and participating private schools.

Section 5. (*Voucher classifications and values.*)

(A) The value of a voucher shall be determined according to the following criteria:

(1) When a parent selects a public school, the cash value of the voucher shall be determined by calculating the average public school per-pupil expenditure in the state.

(2) When a parent selects a private school, the cash value of the voucher shall be seventy-five percent (75%) of the cash value of the voucher given to parents selecting a public school. Tuition add-ons or parental supplements to private school costs shall be permitted. The value of the private school voucher shall in no way limit the cost of a private school's tuition.

(3) When a parent selects a vocational school, the cash value of the voucher shall be no greater than half (50%) the cash value of the voucher given to parents selecting a public school.

(B) Two additional vouchers shall be issued upon request to parents of students with special needs:

(1) When a parent of a child needing special education selects a school, the cash value of the voucher shall vary with the educational difficulty presented by a particular disability. The state's department of education shall categorize the different disabilities and determine the voucher value necessary to meet the needs of students falling under each category. For each category, the cash value of the voucher shall be no less than the cash value of the voucher given to parents selecting a public school. Nor shall it exceed twice that amount.

(2) For low income parents, as defined by the state, who cannot pay for costs attendant to education such as transportation and supplies, the cash value of the

voucher shall be no greater than half (50%) the cash value of the voucher given to parents selecting a public school.

Section 6. (*Financing of vouchers.*) Vouchers shall be funded with amounts budgeted for elementary and secondary education by the state government and local school districts. In addition to voucher revenues, public schools shall utilize amounts received from the federal government and other state and local funds as provided by law.

Section 7. (*Annual changes.*) Vouchers shall be of equal value for students of similar grade level except in the following cases:

(A) Voucher values shall vary when necessary to provide for students with special needs as described in Section 5(B).

(B) Voucher values shall vary for public or private schools receiving more money from the educational voucher program than they would under present funding mechanisms. For such schools, the cash value of the voucher may not exceed the average cost per pupil for the last three (3) years, nor exceed the cash value of the voucher given to parents seeking either a public or private school.

(C) Voucher values shall vary for public or private schools receiving less money from the educational voucher program than they would under present funding mechanisms. For such schools, the cash value of the voucher may exceed ten percent (10%) of the average cost per pupil for the last three (3) years, but not to exceed the cash value of the voucher given to parents selecting either a public or private school. Tuition add-ons or parental supplements shall also be permitted.

Section 8. (*Authority and responsibility of state department of education.*) The state department of education shall have such powers as may be reasonably necessary to carry out its responsibilities to:

(A) issue and pay educational vouchers;

(B) supervise public educational facilities; and

(C) administer its own funds.

Section 9. (*Issuance of vouchers.*) The state department of education shall issue the vouchers by June 1 of each year to parents who submit them to the schools of their choice by July 1. The Schools shall submit the vouchers for payment as agents of the parents to the state department of education by August 1. The state department of education as agents of the parents shall pay the vouchers in two (2) equal payments to the schools, one on September 1 and one on January 1. Appropriate adjustments shall be made for partial year enrollment and transfers. Reasonable requirements for verifying enrollment shall be established by the state department of education.

Section 10. (*Supervision of public school facilities.*) The state department of education shall allot public school facilities on a cost effective basis based on public school needs. Excess facilities shall be leased or rented on a priority basis to private schools at a price determined by competitive bid.

Section 11. (*Budget for state department of education.*) The total budget shall not be less than the national average public school per pupil expenditure times the number of students participating in the voucher system, nor may it exceed twenty percent (20%) above that amount. All other expenses such as administrative costs shall not exceed ten percent (10%) of the amount spent to redeem vouchers.

Section 12. (*Admissions.*) Governing boards of local school districts may designate attendance areas for public schools located within the district. Students residing within the attendance area of a public school shall have first opportunity to register for space in that school; but, such registration shall not be mandatory. When registration of its attendance area's residents is completed, a public school with space available must enroll other children residing within the district on a first come first served basis; after district residents have had an opportunity to register, schools with space available may enroll students residing outside the district. No district may deny its residents permission to attend school outside the district. Nor shall any public or private school deny a student admission solely on the basis of race, color, or national origin.

Section 13. (*Participation by schools.*) While every school supported in whole or in part by tax dollars shall be required to participate in the education voucher program, private schools shall not be forced to participate. Nonpublic schools shall have the option every year to participate or to remain completely independent.

Section 14. (*Autonomy of public schools.*) Parents of students enrolled in each public school shall elect by secret ballot their own school board which shall select its principal and approve its budget. The public schools shall become autonomous units and the principal and local school board shall have the authority to set curriculum, hire and fire employees, and negotiate with unions. In no case shall regulations be imposed on public schools which are more restrictive than existing ones.

Section 15. (*Autonomy of private schools.*) Nonpublic schools shall be entitled to redeem vouchers upon filing a statement indicating satisfaction of those state and local requirements for fire, safety, and health. Neither the state nor local jurisdictions may augment such requirements. No private school shall be ineligible to redeem vouchers because it teaches moral values, philosophy, or religion. Nor shall a private school participating in the education voucher program be considered a recipient of federal assistance.

Section 16. (*Academic progress and discipline.*) A student who uses a voucher at any school may continue therein unless he or she is deriving no substantial academic benefit or is responsible for serious or habitual misconduct. With fair notice and procedures, each school may establish and enforce a code of conduct and discipline, and regulate its academic dismissals.

Section 18. (*Penalty for fraud.*) Any person or institution who defrauds the system shall be prosecuted to the full extent of the law and shall be liable to full and multiple restitution.

Section 19. (*Severability clause.*)

Section 20. (*Repealer clause.*)

Section 21. (*Effective date.*)

Alternatives to Teacher Certification

Bill A Notwithstanding any other provisions of law, the qualifications for teaching in the public schools of this state shall be determined by the superintendents of public school districts and by the principals of public schools.

Repealer Clause . . .

Bill B Notwithstanding any other provisions of law, the qualifications for teaching in the public schools of this state of all teachers employed after the effective date of this law shall be determined by the superintendents of public school districts and by the principals of public schools.

Repealer Clause . . .

Bill C Notwithstanding any other provisions of law, the qualifications for the initial employment of teachers in the public schools of this state shall be determined by the superintendents of public school districts and by the principals of public schools.

Repealer Clause . . .

Bill D As an alternative to the provisions of Chapter _____, Paragraph _____ of this Code, the superintendents of public schools districts and the principals of public schools may determine the qualifications for teaching in the public schools of this state.

Extraordinary Performance Pay for Teachers Act

Section 1. (*Short title.*) This act shall be known and may be cited as the Extraordinary Performance Pay for Teachers Act.

Section 2. (*Purpose.*) The purpose of this act is to require school districts to design and implement extraordinary performance pay plans for teachers who demonstrate outstanding teaching in the classroom.

Section 3. (*Definitions.*) As used in this act, unless context otherwise requires:

(A) "Academic year" means that portion of the school year during which the public schools of a school district are in regular session.

(B) "Board" means the board of education of a school district.

(C) "School" means any elementary or secondary public school of the state.

(E) "Extraordinary performance pay plan" means a pay plan which is adopted in accordance with the provisions of this act by the boards; is supplemental to the regular salary plan of the school district; and awards teachers exclusively for classroom practices.

Section 4. (*Participants of pay plan.*) School districts shall adopt an extraordinary performance pay plan on a trial basis. The pay plan must stay in effect for three academic years to allow for improvements. All schools and teachers within the district except new or beginning teachers must participate in the pay plan. New or beginning teachers shall have the option to participate the first year they teach in the district. Teachers must participate in the pay plan in order to be eligible for performance pay regardless of whether they received it in the past.

Section 5. (*Funding for pay plan.*) Half of any new funds appropriated for teacher pay shall go towards the school districts' extraordinary pay plans. All monies for the pay plans shall be divided equally among school districts.

Section 6. (*Duties of board.*) The board of every school district shall be obligated to perform the following tasks:

(A) Place a strict ceiling on the number of teachers to receive extraordinary performance pay. The ceiling shall be no higher than fifteen percent (15%) of all teachers in each school district. In other words, a maximum of fifteen percent (15%) of the teachers can be chosen from each school to receive performance pay. After a ceiling is established, the board shall then determine the maximum amount of money to be awarded each teacher eligible for performance pay. More money shall be awarded to those teachers who are deserving of performance pay for the second, third, fourth time, etc.

(B) Choose a good instrument for evaluating teachers' performance in the classroom. The instrument shall be developed or chosen in consultation with local administrators and teachers. It shall clearly define evaluation criteria and link the criteria with some kind of point system. More weight shall be given minimum evaluation criteria such as:

(1) Instructional effectiveness e.g., student achievement in the classroom. Forty percent (40%) of total points shall be comprised of instructional effectiveness points. This can be accomplished by multiplying such points by 0.4.

(2) Classroom management skills e.g. methods of discipline. Thirty percent (30%) of the points shall be comprised of classroom management skills points. This can be accomplished by multiplying such points by 0.3.

(3) Communication skills e.g., ability to present and discuss ideas. Thirty percent (30%) of the points shall be comprised of communication effectiveness points. This can be accomplished by multiplying such points by 0.3.

(C) Lay out procedural rules for evaluating teachers' performance in the classroom. Procedural rules shall include:

(1) A pre-evaluation interview or meeting with the teachers about the objectives of the pay plan and the instrument of evaluation;

(2) Yearly classroom observations of teachers;

(3) Review of indicators of student progress;

(4) A post-evaluation interview with randomly selected participants focusing on general opinions of the plan, suggestions for improvement, and reasons why the plan is desirable or undesirable;

(5) A post-evaluation questionnaire to teachers who received awards in order to assess the attainment of the pay plan's objectives such as whether the award was motivating enough to continue excellent performance;

(6) A post-evaluation overall assessment of the pay plan by the evaluators and the board using data derived from the interviews, questionnaires and year long observations.

Section 7. (*Duties of principal.*) The principal of a school shall be obligated to perform the following tasks:

(A) Follow and/or implement the procedural rules in Section 6(C) and any other rules adopted by the board;

(B) Organize and select evaluators. A teacher shall be evaluated by the principal, the department head or immediate supervisor, and expert instructor from another school district who teaches the same subject(s) as the teacher being evaluated, and the teacher's students;

(C) Determine which teachers shall receive performance pay based on:

(1) the number of points accumulated on the evaluations; and

(2) the number of teachers to receive performance pay in the school as determined by the board.

(D) Confer with teachers awarded performance pay to identify the type of reward they would prefer e.g., direct payment for the amount awarded, extra resources for their classroom, conference attendance, partial or full tuition at the college of their choice, etc.

Section 8. (*Severability clause.*)

Section 9. (*Repealer clause.*)

Section 10. (*Effective date.*)

Campus Crime Act

(Title, enacting clause, etc.)

Section 1. (*Short title.*) This act shall be cited as the Campus Crime Act.

Section 2. (*Definition.*) "School" in this act means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school.

Section 3. (*Penalty for assault.*) When an assault is committed on school property against any person, the battery is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Section 4. (*Funding.*) No appropriation is made and no reimbursement is required by this act because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Section 5. (*Severability clause.*)

Section 6. (*Repealer clause.*)

Section 7. (*Effective date.*)

School Access to Juvenile Record Act

(Title, enacting clause, etc.)

Section 1. (*Short title.*) This act shall be cited as the School Access to Juvenile Record Act.

Section 2. (*Purpose.*) This act requires that a court finding a minor of compulsory school age guilty of having committed crimes involving serious bodily injury or narcotics provide a written notice about the criminal offense to school officials and teachers directly responsible over the minor.

Section 3. (*Confidentiality of juvenile records.*) A petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his parents or guardian, the attorneys for such parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefore.

Section 4. (*Access to narcotics records*) Notwithstanding Section 3, written notice of the filing of a petition in juvenile court alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to the superintendent of the school district or principal of the private school of attendance. The district attorney need not obtain a court order prior to providing this notice to the superintendent.

Section 5. (*Access to criminal assault and battery records.*) Notwithstanding Section 3, written notice that a minor or compulsory school age has been found by a court of competent jurisdiction to have committed either a crime of violence which resulted in serious bodily injury or any sexual assaults, shall be provided by the court, within 48 hours, to the superintendent of the school district or principal of the private school of attendance, which information shall be expeditiously transmitted to each teacher or administrator with direct supervisory or disciplinary responsibility over the minor.

Section 6. (*Funding*) The sum of _____ dollars (\$_____) is hereby appropriated from the state budget to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

Section 7. (*Severability clause*)

Section 8. (*Repealer clause.*)

Section 9. (*Effective date.*)

Access to School Premises Act

(Title, enacting clause, etc.)

Section 1. (*Short title.*) This act shall be cited as the Access to School Premises Act.

Section 2. (*Purpose.*) This act requires those who are not students or employed by the schools to register their presence at a school. It also makes it a misdemeanor for outsiders to fail or refuse to promptly leave school grounds after being requested to do so by a school official.

Section 3. (*Definitions.*) As used in this act, with regard to a public school:

(A) An "outsider" is any person other than:

(1) A student of the school, except those students who are currently suspended from the school.

(2) An officer or employee of the school.

(B) "School grounds" are the buildings and grounds of the public school.

(C) "School hours" extend from one hour before classes begin until one hour after classes end.

(D) "Principal" is the chief administrative officer of the public school.

(E) "Designee" is a person whom the principal has authorized to register outsiders pursuant to this act.

Section 4. (*Registration for outsiders.*)

(A) During school hours, an outsider must register at the principal's office before being permitted on school grounds.

(B) The principal or designee may refuse to register an outsider if he or she has a reasonable basis for concluding that the outsider has no lawful business on the school grounds or the outsider's presence would interfere with the peaceful conduct of the activities of the school or disrupt the school, its students, its teachers, or its other employees.

(C) The principal, designee, or school security officer may revoke an outsider's registration if he or she has a reasonable basis for concluding that the outsider's presence would interfere or is interfering with the peaceful conduct of the activities of the school, or would disrupt or is disrupting the school, its students, its teachers, or its other employees.

Section 5. (*Penalty for outsiders refused admittance and subsequently found on school grounds.*) It is a misdemeanor punishable by imprisonment in the county jail not to exceed six (6) months, or by a fine not to exceed five hundred dollars (\$500), or by

both, for an outsider to fail or refuse to leave the school grounds promptly after the principal, designee, or school security officer has requested the outsider to leave or who fails to remain off the school grounds for 72 hours after being requested to leave, if the outsider does any of the following:

(A) Enters or remains on school grounds without having registered as required by Section 4(A).

(B) Enters or remains on school grounds after having been denied registration pursuant to Section 4(B).

(C) Enters or remains on school grounds after having registration revoked pursuant to Section 4(C).

Section 6. (*Funding.*) No appropriation is made and no reimbursement is required by this act because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Section 7. (*Severability clause.*)

Section 8. (*Repealer clause.*)

Section 9. (*Effective date.*)

School Crime Report Act

(Title, enacting clause, etc.)

Section 1. (*Short title.*) This act shall be cited as the School Crime Report Act.

Section 2. (*Purpose.*) This act requires the state department of education in consultation with the state department of justice to develop a standard school crime reporting form for use by all school districts. It also requires school districts to report school-related crime quarterly to the county superintendent of schools.

Section 3. (*School crime report form.*) By June 30, 1986, the state department of education, in consultation with the state department of justice, shall develop a standard school crime reporting form for use by all school districts throughout the state. The form shall define what constitutes the criminal activity required to be reported and shall include, but not be limited to, the following:

(A) Type and frequency of criminal incident.

(B) Crimes against the person including:

(1) Description of crime.

(2) Age and sex of the offender and whether the offender is a student or nonstudent. If the offender is a student, whether he or she attended the school where the crime occurred or another school, and whether he or she was under school suspension or expulsion at time of the offense.

(3) Age and sex of the victim and whether the victim is a student or nonstudent. If the victim is a student, whether he or she attended the school where the crime occurred or another school. If the victim is a nonstudent, whether he or she was employed at the school and, if so, in what capacity.

(4) Where, at what time of day or night, and under what circumstances the incident occurred.

(5) The cost of the crime to the school and to the victim.

(C) Crimes against property including:

(1) Description of the crime.

(2) Where, at what time of day or night, and under what circumstances the crime occurred.

(3) The cost of the crime to the school and to the victim.

Section 4. (*Responsibilities of the state department of education, school district, and county superintendent of schools.*) On forms prepared and supplied by the state department of education, each school district shall report school-related crime quarterly to the county superintendent of schools. The county superintendent of schools shall compile the data and, within 30 days, report this data to the state department of education. The information received from the various county superintendents shall be compiled and annually reported to the Legislature by the

state department of education. The department shall also make this information available to school districts and the public. The report shall deal with crimes against persons and property separately and shall include the cost of these crimes to the victims and to the school districts.

Section 5. (*Funding.*) The sum of _____ dollars (\$_____) is hereby appropriated from the state budget to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

Section 6. (*Severability clause.*)

Section 7. (*Repealer clause.*)

Section 8. (*Effective date.*)

School Discipline Policy Act

(Title, enacting clause, etc.)

Section 1. (*Short title.*) This act shall be cited as the School Discipline Policy Act.

Section 2. (*Purpose.*) This is an act to require the department of education to develop guidelines for the development of school district discipline policies; to require each school district in this state to develop student discipline policies in compliance with such guidelines; to require the department of education to monitor the implementation of student discipline policies; and for other purposes.

Section 3. (*Guidelines for discipline policies.*) The department of education shall establish guidelines for the development of school district student discipline policies. In developing the state guidelines for such policies, the department of education shall involve parents, students, teachers, and administrators. The guidelines shall include, but not be limited to, the following requirements:

(A) Parents, students, and local school district personnel, including teachers, shall be involved in the development of school district student discipline policies.

(B) Student discipline policies shall include, but not be limited to, the following offenses:

(1) willfully and intentionally assaulting or threatening to assault or abuse any teacher, principal, superintendent, or other employee of a school system;

(2) possession by students of any firearm, or other weapon prohibited upon the school campus by policies adopted by the school board;

(3) using, offering for sale, or selling beer, alcoholic beverages or other illicit drug by students on school property;

(4) willfully or intentionally damaging, destroying, or stealing of school property by students.

The school discipline policies shall prescribe minimum and maximum penalties, including suspension or dismissal from school, of students for violations of each of the aforementioned offenses, and for violations of other practices prohibited by school discipline policies. The policies must make clear which kinds of misconduct shall be handled within the school and which shall be reported to the police. The policies must also establish procedures for notice to students and parents of the enforcement and administration of such policies by school administrators and by the school board. However, such due process procedures must not impede a school administrator or teacher's ability to enforce rules.

(C) Student discipline policies shall provide that parents and students be advised of the rules and regulations by which the school is governed and be made aware of the behavior that calls for disciplinary action and the types of corrective actions that may be imposed.

(D) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and documentation of the receipt of such policies all parents and students.

(E) Teachers and administrators shall be provided with training as needed in classroom management and in other skills relevant to student discipline.

Section 4. (*Duties of school districts.*) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the department of education and shall file such policies with the department of

education no later than October 1, 1985. Any amendments or revisions to a school district's student discipline policies shall be developed and adopted in the same manner as the original policies required by this Act and shall be consistent with the guidelines established by the department of education. Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department of education within thirty (30) days after the adoption of such amendment or revision.

Section 5. (*Administrative procedures and penalties for noncompliance.*) The department of education shall monitor compliance with the requirements of this Act and the state board of education shall adopt rules and regulations for the administration of the requirements of this Act.

Any school district failing to file the disciplinary policy required by this Act by November 1, 1985, with the department of education, shall have all state aid funds withheld until such regulation is filed with the department of education.

Nothing in this Act, or any student discipline policies promulgated under this Act, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

Section 6. (*Severability clause.*)

Section 7. (*Repealer clause.*)

Section 8. (*Effective date.*)

Private School Act

(Title, enacting cause, etc.)

Section 1. (*Short title.*) This act may be cited as the Private School Act.

Section 2. (*Definitions.*) As used in this act, the term

(A) "Private schools" means all nonpublic schools including religiously affiliated schools that receive and instruct children of compulsory school age.

Section 3. (*Compulsory school attendance.*) Attendance by a child at any school to which this Act relates and which complies with this Act shall satisfy the requirements of compulsory school attendance.

Section 4. (*Duties of private schools.*) In order to satisfy the requirements of compulsory school attendance for its students a private school shall:

(A) Maintain records on student attendance and disease immunization and make such records available to the local board of education on request;

(B) Operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine (9) calendar months a year;

(C) Be housed in a building that complies with applicable local health and safety regulations,

(D) Provide an organized course of study in science, reading, language arts, mathematics and history. This subsection does not require the private school to include in its curriculum any concept, topic or practice in conflict with any of its religious doctrines or other beliefs or convictions or to exclude from its curriculum any concept, topic, or practice consistent with its religious doctrines or other beliefs or convictions.

Section 5. (*Standardized testing requirements*) Each private school shall administer, at least once in each school year, a nationally standardized test or other equivalent measurement selected by the chief administrative officer of such school, to all students enrolled in grades one, two, three, six, and nine. The nationally standardized test or other equivalent measurement must measure achievement in the areas of English grammar, reading, spelling, and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available at the principal office of such school for annual inspection by a duly authorized representative of the state of

Section 6. (*Voluntary participation in state programs.*) Any private school may, on a voluntary basis, participate in any state-operated or state-sponsored program which would otherwise be available to such school, including but not limited to, statewide testing programs.

Section 7. (*Optional participation in classes and activities of public schools*) No child exercising his rights under the provisions of this act shall be denied the use of public school buildings, facilities, and resources; access to public school personnel; or participation in public school classes and activities, including extracurricular activities; subject only to the same rules applicable to students otherwise in full attendance.

Section 8. (*Requirements exclusive.*) No school, operated by any church or other organized religious group or body as part of its religious ministry, which complies with the requirements of this Act shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, and immunization.

For those states requiring minimum competency for graduation from public high schools:

Section 9. (*High school competency testing.*) Each private school shall administer at least once in each school year, a nationally standardized test or other equivalent measurement selected by the chief administrative officer of such a school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement must measure competencies in the verbal and quantitative areas. Each private school shall establish a minimum score that must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available at the principal office of such schools at all reasonable times, for annual inspection by a duly authorized representative of the state of _____.

Citizen Education Resolution

WHEREAS, Our fellow citizens generally are greatly concerned today by the apparent diminution of our traditional adherence and devotion to high standards of moral and ethical conduct. This concern is felt to pervade the areas of both private and personal interrelationships and public governmental activities;

WHEREAS, Unhappily, all too often one observes or learns by extensive publicity of breakdowns in the normal standards of individual behavior and violations of public trust;

WHEREAS, Although the great majority of our people are aware of this unhappy condition, a sense of helplessness as to how to bring about a remedy appears to have taken hold of their consciousness. Concentrated attention to procedures which might serve to inculcate an appreciation of and a devotion to our best values is needed. Responsibility for formulating a broad program of values education surely rests on the popularly elected State Legislature as well as educators;

WHEREAS, The obvious first problems to face are: "Where do we begin, and how far do we go?" Our leading national thinkers, educators, clergymen, and learning experts agree that the elementary school is the appropriate place to start a program of appreciation of ideals and desirable personal and public conduct. It is at this time students develop positive attitudes about our form of government, moral codes, and value judgments.

WHEREAS, The early school years are especially important because a critical stage of development is beginning—that of thinking in the abstract, making judgments that will form the basis of character for the years to come.

WHEREAS, There are large numbers of parents and educators who feel deeply that today's society and particularly our schools, must address this void in the educational orientation and development of our children; now, therefore, be it

RESOLVED BY THE STATE OF _____, That the Governor appoint a 20-member Commission, with adequate funding, for the purpose of identifying and assessing ongoing programs in moral and values education in the schools of (state) and to make recommendations toward the implementation of Moral Education into the curriculum.

The Commission should be balanced between the State and local level, and comprised of representatives from the private and public sector.

Suggested materials should include materials that provide good role and good deed models and attitudes that foster a sense of civic morality. Examples are: Lives of our early founders, great Americans of the past and present, the great documents which were the basis of the heritage of America, notable statements of principle by recent minds that emphasize devotion to ethical and moral values; and be it further

RESOLVED, That this program should not require a separate course designation with its own block of time in a school period. It could, however, be an addition to or used in conjunction with all areas of the curriculum with special emphasis in Social Studies or American History. To be useful, though, it would need to be treated as a distinct element of each course with its own resources and its own unique implementation format. *This type of "values" program will serve to foster a respect for high standards of conduct and help students make effective value judgments, and to familiarize them with their "place in the world"; and be it further*

RESOLVED, That since moral relativism is in large part responsible for the moral chaos in schools and in society at large, this program shall *not* be construed as advocating "situation ethics," "values clarification" or other morally relativistic philosophies which presuppose a substantive equivalence between all ethical systems and a degree of sophistication on the part of students to articulate and defend morality which teenagers and children do not possess. Any "values program" which employs "survival games," "diaries" or other techniques designed to lay bare for public discussion any individual's ethics or personal convictions without his volunteering to do so and/or puts students in the position through improbable and rigid hypothetical questions of deciding who is to die or suffer harm and under what conditions, is not in accordance with this program; and be it further

RESOLVED, That it is initially the sense of this legislative body that the type of "moral and values education" described is desirable from the point of view of elevating the general ethical and moral standards of our future citizens.

ABOUT THE AUTHOR

Sandra Martin brings a long record of experience in education and communications to the Conference on Alternative State and Local Policies. She has taught in colleges and universities for over twenty years and has additional experience in secondary and elementary schools and in the Montessori method. She is the past editor of a Washington, D.C. weekly, director of academic publications for Illinois' public affairs university, and public information writer for national, state, and local organizations. Her writing has appeared in newspapers and magazines across the country.

A native Missourian with roots in Illinois, she holds bachelor and master's degrees from Saint Louis University and has completed additional graduate work at Purdue University. Her two sons attend public schools.

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